S. HRG. 100-546

MANAGEMENT OF INVENTORY PROPERTIES HELD BY AGRICULTURAL LENDERS

HEARING

BEFORE THE

SUBCOMMITTEE ON
CONSERVATION AND FORESTRY

OF THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

THE WAY OUR FARMLAND IS HUSBANDED, HOW THE SOIL IS CONSERVED, AND THE ENVIRONMENT PROTECTED FOR THE BENEFIT OF FUTURE AMERICANS

AUGUST 4, 1987

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MANAGEMENT OF INVENTORY PROPERTIES HELD BY AGRICULTURAL LENDERS

TUESDAY, AUGUST 4, 1987

U.S. SENATE,
SUBCOMMITTEE ON CONSERVATION AND FORESTRY OF THE
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:28 a.m., in room 332 of the Russell Senate Office Building, Hon. Wyche Fowler, Jr. (chairman of the subcommittee) presiding.

Present or submitting a statement: Senators Fowler and Bond.

Also present: Senator Leahy.

STATEMENT OF HON. WYCHE FOWLER, JR., A U.S. SENATOR FROM GEORGIA

Senator FOWLER. Ladies and gentlemen, good morning. I'm Wyche Fowler from Georgia, the chairman of the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry. Some of my colleagues on the committee will be joining me as we proceed this morning, but because we do have a very fine panel of witnesses that I want to give ample time to, I think we will start now, even a couple of minutes early, which I know is unprecedented in the annals of the U.S. Senate, but I hope that it will help everyone have ample time and us time for questions to our panel.

We are here today to discuss a fundamental issue: that is simply the way our farmland is husbanded, how the soil is conserved and the environment protected for the benefit of future Americans. I don't believe it's a matter of technocracy, or any of these fancy words, any arcane formulas. It seems to me it is a very simple, very basic responsibility of stewardship.

Going back to Ecclesiastes: "One generation passeth away, and another generation cometh: but the earth abideth forever."

We must make sure that the land inherited by the next generation—or even by farmers returning to the land next year, or 10 years from now—has been responsibly managed, that sensitive ecological balances have not been upset.

The Federal Government has worked very hard in this century to try to inculcate values of conservation. Our farmers understand that the value of land is not the same as its price, that marshlands and other unstable terrains that make for poor farming are vital to the ecological balance of more productive lands—and must be preserved. Our farmers understand the need to leave some of their

fields idle every year, to forgo a profit on unplanted crops, so that a fallow period will be followed by a time of hopefully renewed bounty in harvest.

This responsible stewardship has been assaulted, on the one hand, by irresponsible slashes in successful conservation programs by this administration. As if this were not bad enough, our traditional farmers, who understand the value of conservation, are losing control of the land faster than at any time since the Great Depression.

Insurance companies alone now own over 4 million acres, almost $2½ billion worth of foreclosed farmland. The Farm Credit System owns 2 million acres. The Farmers Home Administration owns 1.4 million acres. These numbers are likely to grow, we fear, before they shrink again.

And the reports of conservation lapses and abuses on these foreclosed lands are alarming: absentee landlords in New York and New Jersey, who know more about cost accounting than conservation, direct operations in fields from Mississippi to Montana that are farmed fencerow to fencerow. Their mismanagement often—and it has been documented—drains the life of the land for profit, and allows the destruction of conservation structures built by the previous owners: the family farmers.

I don't know whether we can make the banks and insurance companies understand this principle that I alluded to earlier, that the value of land is not the same thing as its price, that money is not always the ultimate measure of worth when you are talking about the land. But we've got to try, in this case, it seems to me, and that's the purpose of these hearings.

One insurance executive commenting on the problem in the Washington Post last week, said: "Land is a very valuable asset to our policyholders and we must protect their investment."

Well, I would like to simply add another dimension to that. America's farmland is a very valuable asset to this entire Nation. These farmlands hold the key to whether we are going to be able to reverse the trend of growing trade deficits. They hold the key to whether we are going to be self-sufficient when it comes to feeding our people in the future, or whether we are going to be held hostage for food by foreign countries the way they now hold us hostage for crude oil. This is where we all, all Americans, it seems to me, have a huge investment.

If our farmlands become mere items of speculation, then we are gambling with our country's future. That is why the U.S. Congress should not tolerate slipshod stewardship of this precious resource, until it can be placed back in the hands of America's farmers, where surely it belongs.

[The prepared statement of Senator Fowler follows:]

PREPARED STATEMENT OF HON. WYCHE FOWLER, JR., A U.S. SENATOR FROM GEORGIA

OPENING REMARKS, CONSERVATION AND FORESTRY SUBCOMMITTEE HEARING, AUGUST 4, 1987

We are here today to discuss a fundamental issue: the way our farmland is husbanded, how the soil is conserved and the environment protected for the benefit of

future Americans. It is not a matter of technocracy or arcane formulas. It is a very simple, very basic responsibility of our stewardship.

Ecclesiastes tells us: "One generation passeth away, and another generation cometh: but the earth abideth forever."

We must make sure that the land inherited by the next generation—or even by farmers returning to the land next year, or ten years from now—has been responsibly managed, that sensitive ecological balances have not been upset.

The federal government has worked very hard in this century to inculcate the values of conservation. Our farmers understand that the value of land is not the same as its price, that marshlands and other unstable terrains that make for poor farming are vital to the ecological balance of more productive lands—and must be preserved. Our farmers understand the need to leave some of their fields idle every year, to forgo a profit on unplanted crops, so that a fallow period will be followed by a time of renewed bounty.

This responsible stewardship has been assaulted, on the one hand, by irresponsible slashes in successful conservation programs by this administration. As if this were not bad enough, our traditional farmers, who understand the value of conservation, are losing control of the land faster than at any time since the Great Depression.

Insurance companies alone now own over 4 million acres, almost two-and-a-half billion dollars worth of foreclosed farmland. The Farm Credit System owns 2 million acres. The FmHA owns 1.4 million acres. These numbers are likely to grow before they shrink again.

And the reports of conservation lapses and abuses on these lands are alarming: absentee landlords sit hundreds of miles away in their offices in New York and New Jersey, who know more about cost accounting than conservation, direct operations in fields from Mississippi to Montana that are farmed fence row to fence row. Their mismanagement drains the life from the land for profit, and allows the destruction of conservation structures built by the previous owners: family farmers.

I don't know if we can make the banks and insurance companies understand that the value of land is not the same thing as its price, that money is not always the ultimate measure of worth, but we've got to try, in this case.

One insurance executive commenting on the problem in the Washington Post said, "Land is a very valuable asset to our policy holders and we must protect their investment."

Well, I would like to correct him: America's farmland is a very valuable asset to this entire nation. These farmlands hold the key to whether we are going to be able to reverse the trend of growing trade deficits. They hold the key to whether we are going to be self-sufficient when it comes to feeding our people in the future, or whether we are going to be held hostage for food by foreign countries the way we have been for crude oil. This is where we all have a huge investment.

If our farmlands become more items of speculation, then we are gambling with our country's future. That is why the United States Congress should not tolerate slipshod stewardship of this precious resource—until it can be placed back into the hands of America's farmers, where it belongs.

Senator FOWLER. Our first panel this morning will be composed of Ron Kroese, the executive director of the Land Stewardship Project in Stillwater, Minnesota, and Mr. Randy Railsback, a farmer and Soil Conservation District supervisor in Hamilton, Missouri.

I think we will have a slide show in this presentation. I do ask all witnesses—I know you've been told, and I would remind you, that your complete statement will be made a part of the record—I do ask you to hold your presentation to approximately 7 minutes to give us plenty of time for discussion afterward.

STATEMENT OF RON KROESE, EXECUTIVE DIRECTOR, LAND STEWARDSHIP PROJECT, STILLWATER, MN

Mr. KROESE. Thank you very much, Mr. Chairman and members of the subcommittee. I want to thank you for inviting Randy and me to testify today. Randy Railsback is a farmer from Hamilton, Missouri, who serves as a district soil and water supervisor in Cald-

well County, Missouri. I'm director of the Land Stewardship Project, a nonprofit conservation education organization headquartered in Stillwater, Minnesota. We are working to foster an ethic of stewardship toward farmland in the Midwest and to promote methods of agriculture that will be more sustainable in the long term. In Minnesota we are probably best known as the group who got the campaign going to make the earthworm the state animal; I think we have a long ways to go—the timber wolf is still leading, but we are coming up fast.

Senator FOWLER. In California, I can report to you from hearings last week, they actually have a state reptile. I guess that would be expected of California. [Laughter.]

Who has to decide what the state animal will be?

Mr. KROESE. The legislature decides. Maybe we will have to settle for state invertebrate, or something like that.

Senator FOWLER. I wish you Godspeed.

Mr. KROESE. We come before the committee today to bring to light one of the little-noticed, but far-reaching effects of the farm crisis of the 1980's. Namely, the increasing ownership of U.S. farmland by major life insurance companies. We are concerned about the displacement of farm families that continues to occur as a result of the takeover of farms by these firms, and about the degradation of the soil and water that is happening as a result, in too many cases, of these takeovers.

Let's have the first slide. This is a picture of a man named Chuck Thesing looking over what used to be his farm in southeastern Minnesota, looking at a gully that formed as a result of the management by the Travelers Insurance Company, which is one of the major farmland holders in Minnesota.

During the past year and a half, through LSP's work through local stewardship groups in the Upper Midwest, and through the Farmland Investor Accountability Program we've begun, we have conducted some research to examine the magnitude and significance of the problem. My prepared testimony goes into quite a bit of detail, but I will just briefly touch on some things to bring it to light, and show a couple of graphs.

The latest figures reveal that by the end of 1986, 14 major insurance companies held some 53,300 farm mortgages in the United States, valued at an estimated $11 billion, and comprising 10 percent of the U.S. farmland debt. In addition, by the end of 1986, these companies held outright farm real estate holdings estimated at 4.1 million acres and valued at $2.3 billion—the graph shows that growth. Probably the most surprising aspect to some people is that the 4.1 million acres is a tenfold increase since 1979, and it's more land than the combined inventories of the Farmers Home Administration and the Farm Credit System at this time.

Most of this land—show the next slide—it's a combination of land acquired through purchase and foreclosure. Prior to 1982—and this shows the major companies involved in this and the dollar amounts—you can see that Prudential, Travelers, Hancock, Metropolitan Life, and Aetna are the big five with about 75 percent of the farmland. Up till 1982, most of this farmland was acquired intentionally by three of the major companies—Prudential, Travelers, and Hancock. They acquired about 1.4 million acres, outright

purchase, but since 1982 almost all the land has been acquired through foreclosure or some proceedings involving debt, about 3 million more acres. And most of that has been happening in the Midwest.

Give me the next slide. That shows a graph of the major States. You can see Nebraska, Missouri, Iowa, the leading States where foreclosures have been taking place involving insurance companies.

A further cause for concern is the fact that even though there are State laws in many States, including Minnesota and Iowa, to deal with the outright purchase of farmland by insurance companies, anticorporate farm laws, this obviously has not stopped the acquiring of these lands through foreclosure. And I think that was an unintended, unforeseen problem when our legislators in Minnesota, for example, were drafting the anticorporate farm laws—they didn't realize that this would happen, of course. But the combination of the tremendous fall in land values coupled with the low commodity prices brought about this economic situation that we are all familiar with.

There's another interesting thing. I know that 4.1 million acres is a figure that surprises some people, yet we feel that it may be conservative. We are a small organization and haven't the resources to do the kind of research we would like to, although we are going to try to keep at it for the next couple of years. We went back to 15 counties in Missouri, Minnesota, and Iowa, where we actually checked the county assessor records, looking at the insurance company reported acres. In all cases, in all 15 counties, it turned out that the acreage actually exceeded the reported records. I don't know the reason for that, whether it's just a lag time in reporting or whatever, but I think it reveals that our figures are probably low.

Senator FOWLER. By how much?

Mr. KROESE. Well, I can't really say. It was just usually a matter of just a few farms in each county, that kind of thing.

The other factor that I think is unknown, but deserves to be pursued, is how long these companies intend to hold on to these farms. While some of the other farm credit institutions have been turning over property, as we know, we haven't seen that happening as rapidly with the insurance companies. In fact, a couple of years ago some of the major companies were still saying that they intended to hold on to this land for the long term until the land prices came back up to try to recoup some of their losses. And what would lend evidence to that probability is that during the past 2 years, Prudential Life, Mutual of New York, and Metropolitan Life have brought three of the largest farmland management companies in the Midwest.

So we are concerned about this problem, then, of course, not only from the disruption of community and farm families it has brought about, but for the land itself. And that is the main thing that we have been dealing with. Our office has been called by our constituents out in the country, concerned with what they have seen happening on these inventoried lands, when they left the management of the farm families that had them before.

I think the best thing I could do now, rather than go into more detail about this, would be to show the slides of the examples we

have of the three companies. I want to emphasize that while I am just going to show slides and give details on just a few situations, my prepared testimony includes several more examples. We have been charged by some people that we are just picking out a few outstanding cases. That is not the case; we know of many, many more examples that have come to us through our hotline. With the help of a Farm Aid grant we were able to set up what we call a Farmland Protection Hotline, and we've been getting a number of calls from around the country, especially the Midwest, about this situation.

The first slide shows a farm in Minnesota. This one, the Hauck farm in southeast Minnesota—this is one of the shots that farmers often have taken of their farms, a "heavenly farm" shot, they call them, where an airplane flies over. Mr. Hauck was very proud of the conservation work on his farm, and he was named conservation farmer of the year a few years ago. A decade ago, he became concerned about the problems he could see with pesticide use on his farm, so he converted it entirely to an organic operation. To get his boys into his dairy operation, he used the home place for collateral to borrow money to expand his dairy operation from John Hancock, and that got him into trouble, and he was foreclosed on in the winter of 1984-1985. So Hancock brought in a farmer from the next county over who came in and put the entire farm into row crop, and in 3 days plowed out every bit of conservation that the Haucks had put on the farm over 27 years. It was conservation practices, by the way, that were installed with the help of Federal cost-share dollars.

Next slide. This next slide, if it works, shows what the farm looked like after Hancock's farmer went in and plowed it all out.

Senator FOWLER. Aquaculture.

Mr. KROESE. The other thing we are concerned about is, that is an area with what's called the karst geography, that is, underneath the soil, instead of having a deep layer of clay, there's just limestone; it was an unglaciated area. So almost anything put on the land very quickly finds its way into the water table.

I brought along today some soil from that farm. I thought that would illustrate a point. Although it looks like perfectly harmless soil, there's an interesting story there. After 2 years of negotiating with John Hancock, we finally persuaded them to sell the farm back to a family farmer from a neighboring county who's trying to put the farm back into a dairy rotation. And this year, in order to get that started, he tried to plant alfalfa on part of the property to put in some contour strips, and the alfalfa wouldn't even sprout from the atrazine carryover. So we have an example of a farm that went from being an organically certified farm—one of the few organically certified farms in Minnesota—to having soil that was so poisoned by herbicide that this year it wouldn't even grow alfalfa.

The next example I want to show deals with Prudential Life Insurance in Indiana and Illinois. Prudential purchased 26,000 acres of farmland in Jasper and Newton Counties in Indiana and Kankakee County in Illinois and consolidated them into one large farm; they drilled 36 deep irrigation wells and installed 34 center-pivot irrigation units after clearing the land of all of its trees. The entire farm was planted in corn and soybeans—this was 1980; and in 1982

the neighboring farmers began finding that their wells were going dry or their water quality was deteriorating. And according to a 1985 report by the Indiana Department of Natural Resources, from 1981 to 1984, some 130 neighboring household wells, as well as a few livestock wells, were adversely affected. Several citizens complained that while they had to travel several miles to fill up their water jugs, the irrigation continued wastefully on the fields day and night. The slide I was going to show shows the water splashing over the highway. One of the sort of rueful jokes that the small farmers told around there is that, while they didn't have water to drink, they had plenty of water to wash their cars; they could just drive over to where the irrigation was happening and park the cars along the side of the road.

So the local residents worked to pass legislation in Indiana regulating irrigation, and in 1985, following a 3-year court battle, did get a $1-million settlement; it was reached by 55 families. We have been working with the farmers on the Illinois side of the situation. There has been a law passed now regulating irrigation in Illinois that is just awaiting the Governor's signature, and a lawsuit is also pending against Prudential in Illinois.

The last case I want to bring to light before I have some policy recommendations happened to——

Senator FOWLER. Why don't you just go ahead and give me the policy recommendations.

Mr. KROESE. OK, I'll do that. I think that the insurance companies have the responsibility as well as the financial resources to correct these farm management policies. For the most part we have been concentrating on getting the insurance companies themselves to straighten out this problem.

We suggest three provisions to the insurance companies that we think should become policies industrywide, and which we are going to continue to press for, and they are the same policies that we ask of all family farmers. And that is that they do not plow any existing conservation on properties that they take over; that they go to the county soil district office and apply for a conservation plan on the land; and that they offer right of first refusal to the previous owner.

But, besides those internal policies, I do believe there are some things the Federal Government can do, and that's what I will bring out today. The Land Stewardship Project is founded on the idea that the first calling of agriculture is to keep and care for the land. Out of this nurturing will come the blessing of food and fiber. Modern agriculture, especially since World War II, has turned that fundamental understanding on its head, making production, not stewardship, the principal end. This misguided expedient approach to agriculture has resulted in erosion of soil, poisoning of water, and dissolution of rural communities, with consequences that we cannot allow to continue.

Those of us working with the Land Stewardship Project are convinced that the land is best cared for by families who have a reasonable expectation that their own children and grandchildren will also be living on the land.

And we also accept the wisdom of what Wes Jackson of the Land Institute calls his eyes-to-acres ratio, that there is a limit to the

amount of land that one family can properly husband. If the farm grows too big, in order to meet bottom-line economic considerations, stewardship inevitably will suffer. For this reason we believe it is impossible to separate degradation of soil and water from the economic problems that continue to plague family farm agriculture. We agree that farmers must have a better price and that this could best be achieved through mandatory production controls and that tax and credit advantages that favor the big producers must be eliminated if we are to expect these family farmers to be the good stewards most of them really want to be—and I believe that.

However, it is clear that better prices alone will not bring this about. We applaud the cross-compliance measures of the Food Security Act of 1985 and we urge Congress to apply similar conservation requirements to any relief or bailout measures for government or private credit agencies.

The credit needs of family farmers and food security of the people of this country are best served by an agricultural credit system funded and controlled by the people. From a conservation perspective, formation of a secondary mortgage market is not something we think is the best thing, because it will add another layer of bureaucracy, I'm afraid, between those making the bottom-line financial decisions about farms and those who are actually tilling the soil. And that's a problem we've been seeing with insurance companies.

One of the things I want to bring forth is I don't think there is always bad intent—I know there isn't, from talking to many insurance company officials—but it is just a matter, as Randy will discuss—of it being impossible to manage a farm from 3,000 miles away, and they just don't have the personnel out there to do the job right.

Senator FOWLER. What is the remedy for that?

Mr. KROESE. Well, I think the long-term remedy is to come up with ways to make sure there is enough credit from the Farmers Home Administration, from Government-controlled credit sources, and from local banks so that farmers don't have to turn to insurance companies for the credit.

In the short term, since the insurance companies do have as many mortgages to manage as they do, and as much farmland as they do, we try to get them to put more people out on the land to keep an eye on things, and also to put conservation provisions in their lease contracts. As a result of our work in Minnesota, we have a law passed now at the State legislature in Minnesota that requires corporations to maintain existing conservation structures on the land when they take it over. And if they do plow out any conservation——

Senator FOWLER. You said because of unforeseen circumstances, you didn't think that law was adequate, did you not?

Mr. KROESE. Well, the laws that are not adequate, the laws that haven't been totally effective, are the ones that prevent outright purchase of farmland. And that's what's happened in Minnesota: they cannot purchase farmland directly, but they could still make farm loans and are getting the lands through foreclosure, and then are not in a position to manage them properly, that is our complaint.

Senator FOWLER. You said that the insurance companies have purchased three of the largest land management firms in the West to manage the property and to help them. Do you view that as a positive process?

Mr. KROESE. Not in the long term I don't think so.

Senator FOWLER. Why?

Mr. KROESE. Well, I think that is another whole question to examine. There are now something like 1,000 farmland management companies in the country, and one of the issues that needs to be dealt with is the conservation policies of those farm management companies. They range across the board, as far as I can see, from some of them being very good farm managers—the ones that tend to be smallscale and with some accountability to the community—ranging to big ones with as many as 4,000 farms.

So I think in the long term it would be much better if this land were turned back over to farm families, especially the people that had it before, and we are probably going to get better management of the land. And that should be the goal of these companies. And the Government should do whatever they can to try to make that happen.

Senator FOWLER. But we don't know the answer—you don't know the answer from the Land Stewardship Project on the record that will be developed by these companies operating on behalf of what you call the absentee landlordship.

Mr. KROESE. The farmland management companies?

Senator FOWLER. Yes.

Mr. KROESE. I think that it just ranges, like I said, a great deal. There are some companies—the insurance companies have made a point, and I think they've been right in some cases, that when they get the right management situation on the land, the conservation will be all right; when they don't, it goes bad. In many cases that we show, it won't always be farm management companies—like the case of the farm in Wabasha County, Minnesota, just hiring a big cash grain farmer from the next county over.

[The prepared statement of Mr. Kroese follows:]

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Executive Director

Statement of Ron Kroese

Executive Director, Land Stewardship Project, Stillwater, Minn.

before the Senate Subcommittee on Conservation and Forestry

August 4, 1987 in Washington, D.C.

Mr. Chairman and Members of the Subcommittee I want to thank you for inviting Mr. Railsback and me to appear before you today. Randy Railsback is a farmer from Hamilton, Missouri, who serves as a district soil and water supervisor in Caldwell County, Missouri. I am executive director of the Land Stewardship Project, a non-profit educational organization, headquartered in Stillwater, Minnesota. The Land Stewardship Project (LSP) works to foster an ethic of stewardship toward farmland in the Midwest and promotes methods of agriculture which will sustain the land and people living on it.

We come before the committee today to bring to light one of the little noticed, but far reaching effects of the farm crisis of the 1980s. Namely, the increasing ownership of U.S. farmland by major life insurance companies. We are concerned about the displacement of farm families that continues to occur as a result

of the take-over of farms by these firms and about the degradation of the soil and water due to the mismanagement of these farms by the insurance companies.

During the past year and a half, through LSP's work with local stewardship groups in the Upper Midwest and through the Farmland Investor Accountability Program's formal research directed by the University of Minnesota's Center for Urban and Regional Affairs (CURA), the magnitude and significance of insurance company control of farmland in the U.S. has become apparent. The latest figures reveal that by the end of 1986, 14 major insurance companies held some 53,300 farm mortgages in the U.S., valued at an estimated $11 billion, and comprising 10 percent of the U.S. farmland debt. In addition, by the end of 1986 these companies held outright farm real estate holdings estimated at 4.1 million acres and valued at $2.3 billion, a 10-fold increase from just $241 million in 1979 and more land than the combined inventories of the Farmers Home Administration and the Farm Credit System.

In the Midwest, where most of the foreclosure activity is occurring, combined 1986 farmland holdings of the leading insurance companies were valued at $700 million, 28 times higher than the total 1979 value of $25 million. In terms of acres, the holdings grew from 30,000 acres in the 12-state Midwest area to more an one million acres in 1986. Prudential Insurance Company alone, the largest of the big five insurance company farmland holders which own 75 percent of the industry's farmland holdings, currently holds farmland real estate in 18 states valued at $569.9 million, part of it acquired through outright purchase, part of it through foreclosure.

Most of the farmland acquired before 1982 by the insurance industry was acquired through direct purchase. By that year, the major insurance companies, led by Prudential, Travelers and Hancock, owned 1.4 million acres. Since then nearly all the land has been acquired through debt satisfaction. Since 1982, total acreage owned by these companies has increased by about 30 percent a year as foreclosures increased from 167 in 1982 to 1,654 last year.

By 1986, the major insurance lenders had acquired some 2.8 million acres of land through foreclosure, or about two-thirds of their total farmland real estate holdings.

An examination of data compiled by the American Council of Life Insurance reveals that the number of foreclosures by insurance companies continued to increase in 1986, caused primarily by the precipitous decline in farmland values since 1981, coupled with chronically low prices for major farm commodities. Although no official figures are yet available, it appears that the high rate of foreclosures continued through the first half of 1987. According to the Insurance Council, at the end of 1986, a record 8.2 percent of the mortgage value of insurance company farm loans was in the process of foreclosure, while 19.9 percent of the mortgage value was listed by the companies as delinquent. In Iowa, for example, according to insurance company annual reports, during 1986 the acreage of farmland acquired through foreclosure by insurance companies more than doubled from 45,000 acres in 1985 to 125,000 acres by the end of 1986. In Minnesota the number of foreclosures jumped from 25 in 1984 to 81 in 1985 to 151 in 1986.

A cause for further concern about the impact of insurance firms is the fact that the various state laws designed to prevent corporations from owning farmland appear to be having little effect in preventing acquisition through foreclosure. For example, Minnesota and Nebraska have laws which limit non-family farm ownership of farmland, yet farmland acquisition by insurance companies through foreclosure continues unabated. Moreover, LSP's preliminary research comparing acreage figures reported by the insurance companies to the respective state commerce departments to our own researchers' examination of county assessor records in 15 counties in Iowa, Minnesota, Missouri showed insurance companies' actual holdings exceeding those reported in all 15 counties.

While we have no exact figures on the rate of disposition of farmland inventories by insurance companies, it appears that at least some of the major companies intend to hold on to their farm properties for years to come. During the past two years, for example, Prudential Life bought a large farm management company from Northern Bank and Trust Co. Mutual of New York acquired an investment company which brought with it ownership of the 47-year-old Duffy Farm Management Service, and Metropolitan Life purchased the nation's largest farm management company, Farmers National Company in Omaha for $7 million. Farmers National managed some 3,900 farms with more than one million acres of land.

The trend of increasing insurance company control of farmland obviously has very significant implications for rural America, as a brief look at history reveals. During the Great Depression, when insurance companies were the major source of farm real estate credit, two-thirds of the farm foreclosures were carried out by insurance companies. By the end of the 1930's insurance firms had acquired 15 percent of U.S. farmland. When the Depression ended, only a small number of farmers were able to buy back their farms from the companies. As USDA historian Wayne Rasmussen pointed out in an article on insurance companies and farmland in the April, 1986 Harrowsmith magazine, the effects of this great transfer in land ownership were enduring: "After foreclosure, many of the farms were consolidated and sold as bigger units. So the losses of that period increased the trend toward fewer and bigger farms."

The Land Stewardship Project is concerned about the situation not only for the disruption of community brought about by foreclosures as farm families are forced off the land, but also about the effect the increase in corporate ownership is having on the land itself. Through our work in farm communities

in the Upper Midwest LSP has documented many instances where insurance firms have taken over farms and done a poor job of managing them, causing severe degradation to the soil and water on the farms (see attached listing of examples). In several cases, the insurance firms leased the land to farm management companies or individuals who destroyed existing conservation structures (terraces, grassed waterways, contour strips) -- structures that had been put on the land with state and federal cost-share monies, and which one day will have to be re-installed if the land is to be brought back up to reasonable conservation standards.

While recent events surrounding the selling of acquired farmland by the Farm Credit System have drawn public attention to the inadequacy of governmental policies designed to return this land to previous owners or beginning farmers, there are no laws requiring the equitable redistribution of farm properties acquired by insurance companies. Furthermore, it is also apparent that these companies generally are unable or unwilling to adequately protect the land while it is in their control.

Many examples of mismanagement of farmland by insurance companies have come to the attention of the Land Stewardship Project through our contacts developed over the past five years in the Midwest and through our Farmland Protection Hotline initiated this year with a grant from Farm Aid. With the help of Mr. Railsback I would like to present more detailed accounts of three of those examples.

JOHN HANCOCK IN WABASHA COUNTY, MINNESOTA

In March, 1985, LSP's field coordinator at our regional office in Lewiston, Minnesota was contacted by our Wabasha County volunteer committee. The committee members, a group of conservation-minded farmers, clergy and

concerned citizens, were angered about the severe damage that was occurring on a farm in the county. For nearly three decades the 270-acre farm had been owned and operated by a dairy farmer named Ed Hauck. Hauck was well-known in the community for his care of his family's land and in the late 1960's had been named the county conservation farmer of the year by the local soil district. Ten years ago, concerned about the effect pesticides were having on his and other farms in the area, he converted to entirely non-chemical farming methods, relying on animal manure and crop rotations for fertility and weed control.

During the late '70s, in order to bring his sons into his operation, Hauck increased his herd and expanded his dairy facilities. Using the family's farmland as collateral, he secured a loan from the agricultural investment division of the John Hancock Mutual Life Insurance Company. In the winter of 1984-85, because the family was unable to meet its loan obligations, Hancock foreclosed on the farm and the Hauck family moved from the homestead.

Under Hancock's management, the entire farm was brought under the plow and planted in corn and soybeans with chemical herbicides used to control weeds. All the conservation structures, including terraces and grassed water ways, were destroyed. According to the county U.S. Soil Conservation Service officer, the estimated annual soil erosion rate increased 10-fold.

Members of the Wabasha LSP committee and LSP staff worked through the summer and fall in an effort to draw public attention to the situation and to get Hancock officials to take action to correct it. The citizen-action efforts led to articles and feature stories in several major periodicals and eventually to a meeting between Hancock officials and LSP staff and volunteers. At the meeting, the LSP representatives presented the following conservation policy guidelines to Hancock officials -- provisions which we believe should be the minimum standards for appropriate policy for all

agricultural investment firms regarding farmland that comes under their control through purchase or foreclosure:

1. Existing conservation structures, such as terraces and grass waterways, should be used and maintained;
2. An approved Soil Conservation Service cooperator's agreement should be developed and adhered to on all farm properties owned or managed;
3. Previous owners should be given first right of refusal to rent land and buildings on all foreclosed farms. If the previous owner is unable or unwilling to do so, the availability of the land should be publicly advertized.

Despite promises of improvements, including finding a new tenant, the actions by Hancock officials during the 1986 crop year were largely disappointing. They merely rented the farm to the son of the farmer who had mismanaged the farm the year before and he largely continued the high-chemical, erosive farming methods his father had employed. As public pressure continued, however, events did take a more positive note in the early spring of 1987 as Hancock sold the farm to a dairy farmer from nearby Winona County whose own farm has been purchased by the state of Minnesota for inclusion in a state wildlife park. The farmer, who has a good reputation as a conservationist, moved his family this spring and is returning the land to a dairy-based crop rotation system and restoring the conservation structures on the property. Unfortunately the new farmer still has to deal with the problems Hancock's mismanagement created. This spring when he attempted to plant alfalfa to restore the soil-saving grass strips, the alfalfa failed to sprout because of the herbicide carry-over from the year before. In two years of Hancock ownership, the Hauck farm deteriorated from the exceptional status of organically certified to being too chemically contaminated to grow even alfalfa.

On a more positive note, LSP's Hancock campaign did result in 1985 in a state legislator from Wabasha County introducing a bill in the Minnesota legislature requiring corporations to repay the state for any damages done to conservation structures which had been installed with state cost-share monies. The measure passed and is now law in Minnesota. LSP is now urging other states to pass similar measures and we ask members of the Subcommittee on Conservation and Forestry to consider legislation that would protect conservation practices installed with Federal cost-share dollars when the land changes owners.

PRUDENTIAL LIFE IN INDIANA AND ILLINOIS

In 1980, Prudential Life Insurance Company purchased 26,000 acres of farmland in Jasper and Newton Counties in Indiana and Kankakee County in Illinois. Prudential drilled 36 deep irrigation wells and installed 34 center pivot irrigation units after clearing the land of its trees. The huge farm was planted to corn and soybeans and in 1982 neighboring farmers and homeowners began finding their wells going dry or water quality deteriorating as the irrigation wells lowered the underground acquifer by as much as 80 feet during irrigation season. According to a 1985 report by the Indiana Department of Natural Resources, from 1981 through 1984 some 130 neighboring household wells, as well as a few livestock wells, were adversely affected. Several citizens complained that while they had to travel several miles to fill up water jugs, irrigation wastefully continued on the fields day and night.

Local citizens worked to pass legislation in Indiana regulating irrigation and in 1985, following a three-year court battle, a $1 million settlement was reached with the 55 farm families who had filed suit against Prudential. For the past two years LSP and Family Farm Organizing Resource Center organizer Steve O'Neil has been working with affected Illinois farmers

seeking relief and compensation. This year the Illinois legislature passed a law regulating irrigation. The measure now awaits the governor's signature and a lawsuit is pending against Prudential.

MUTUAL BENEFIT IN CALDWELL COUNTY, MISSOURI

In Caldwell County, Missouri, local farmers and residents are working to halt the abuse of land on a 760-acre farm now owned by the Mutual Benefit Life Insurance Company of Newark, New Jersey. Herbert and Mary Jones had farmed the land since 1948, winning the county soil and water conservation award in 1964. An account from the May 29 issue of the county's paper, The Hamilton Advocate, details the insurance company's treatment of the Jones farm:

"The Jones family acquired their first 160 acres in 1948 with a loan from Mutual Benefit. They paid on that loan and increased the size of their operation for 35 years. On April 19, 1985, the insurance company foreclosed on the property.

"Herb and his family and neighbors then watched as a bulldozer operator worked for about nine months, leveling 12 terraces, two houses, a few barns, a conservation diversion and miles of fences and vegetation. The dozer filled in ponds with barbed wire, brush and building materials and then pushed dozens of black walnut trees into Lick Fork Creek. Sources close to the Jones family say the operator was working off a debt owed to the insurance company by doing the dozing.

"The farm was then rented and planted to corn and soybeans. Each year the family that had farmed the land for 35 years saw devastating damage being done to the land. Gullies were carved in the soil, caved in the next year and planted over in the spring, only to open up again the next season.

"Herbert Jones said, 'What really gets me is what they did to the land. After they foreclosed, they wouldn't even rent it back to me to farm. If they had done that, all that erosion and ditches wouldn't have happened. But they

put somebody else on it and now all that soil is gone, just gone.'"

Long-time local residents, including clergy, townsfolk, neighboring farmers, and conservationists have joined with the Jones family in an effort to convince Mutual Benefit officials to replace quality conservation structures and practices on the land, to rent or sell the farm back to the Jones family, and add strong conservation provisions to all their farm leases to prevent similar abuses on the company's other farm properties. Mutual Benefit, after receiving some 200 letters gathered in April from local residents, recently has agreed to meet with representatives of the community in an effort to resolve the issue.

Again, we would like to emphasize that the three situations just described are not isolated incidences, but are indicative of a industry-wide and nation-wide problem of mismanagement and abuse of farmland and mistreatment of farm families. Fred Hainline, U.S. Soil Conservation Service director in southern Iowa's Davis County, summed up the situation in a recent article in the Des Moines Register when he said he often can tell which farms are owned by insurance companies and other absentee landlords just by driving by them.

"The fences are normally run-down, the buildings are in poor condition and the land doesn't seem to have a lot of concern, other than for production," he said.

POLICY RECOMMENDATIONS

We believe that the insurance companies have the responsibility, as well as the financial resources, to correct their farm management policies. We have presented the three basic provisions for management, which I described earlier, to the officers of several major companies and will continue to press these companies to live up to their land stewardship obligations. Nonetheless, we believe there are several things the U.S. government can do to insure sound management of farmland by absentee corporations, and even more importantly, prevent the take-over of additional lands by corporate investors.

The Land Stewardship Project is founded on the idea that the first calling of agriculture is to keep and care for the earth. Out of this nurturing will come the blessing of food. Modern agriculture, especially since WWII, has turned that fundamental understanding on its head, making production, not stewardship the principle end. This misguided, expedient approach to agriculture has resulted in the erosion of soil, poisoning of the water and dissolution of rural communities, consequences that simply cannot be allowed to continue.

Those of us working with the Land Stewardship Project are convinced that the land is best cared for by families who have a reasonable expectation that their children and grandchildren also will be making a living from that land. We also accept the wisdom of what Wes Jackson of the Land Institute calls the "eyes-to-acres" ratio. That is, there is a limit to the amount of land one family can properly husband. If the farm grows too big in order to meet bottom line economic considerations, stewardship inevitably suffers. For this reason, we believe it is impossible to separate degradation of soil and water from the economic problems that continue to plague family farm agriculture. We agree that farmers must have a better price, that this can best be achieved through mandatory production controls and that the tax and credit advantages that favor big producers must be eliminated if we are to expect family farmers to be the good stewards of the land most of them want to be. However, it is clear that better prices alone will not bring about improved conservation. For this reason we applaud the cross-compliance measures of the 1985 Food Security Act and urge Congress to apply similar conservation requirements to any relief or bail-out measures for government or private credit agencies.

The credit needs of the family farmers and food security of the people of this country are best served by an agricultural credit system funded and controlled by the people. From a conservation perspective we oppose the

formation of a secondary mortgage market because it will add another layer of bureaucracy between those making the bottom-line financial decisions and the farmers who are actually tilling the soil. And it is likely that the credit made available through a secondary mortgage system would benefit larger operators and investors at the expense of small- to moderate-sized farmers who are in the best position to be careful stewards of the land. It would seem far better to reform and strengthen the Federal Land Bank and the Farmers Home Administration by returning their control to the small and moderate-sized farmers they were designed to serve, by building into the lending policies of these agencies a genuine commitment to the preservation of the soil and water, and by developing a mechanism for fairly redistributing the lands in the creditors' inventories to families willing to farm the land well.

If however, a secondary market system is an inevitable component of the restructuring of the Farm Credit System, every effort must be made to assure that conservation policies are built into the heart of the system. Any assistance or guarantees provided to lenders should carry with them the conservation requirements of the 1985 Food Security Act, extending to all federally assisted credit institutions the same procedures now required of the Farmers Home Administration. Such a policy would insure that a conservation plan is completed for the land before loans are made and would protect the land whether or not the farmer participates in other USDA assistance programs.

Land already in the inventories of private lenders, FCS and FmHA, and meeting the erosion criteria, should be allowed into the Conservation Reserve Program after it has been purchased by a qualified, local farmer. In order for the land to qualify, upon sale, for eligibility in the program, the holder of the land would be required to offer right of first refusal to the previous

owner of the land under terms at least as favorable as those the lender proposes to offer other prospective buyers.

Mr. Chairman, thank you for the opportunity to come before the Subcommittee today to express our concern about what we see happening to the farms and farmers as a result of the growing control of farmland by investors and lenders. Mr. Railsback and I would be glad to answer any questions at this time.

LSP 8/4/87

EXAMPLES OF INSURANCE COMPANY FARM MISMANAGEMENT

1. Tuttle farm/Wayne Co., Iowa/acquired thru foreclosure by John Hancock, 2/86

   Wendell Tuttle had large field in alfalfa for two years. Hancock has put it into beans, planted in rows up and down the hills. No waterways, gullies forming. Planted in crop right up to fence lines, no grass buffer at fields' edges. Planting every piece of ground available. Another field has several inches of eroded topsoil covering little tufts of corn. Since the last time we saw it, Wayne County has received a one-week rainfall of 13".

2. farm/Cuming Co, Nebraska/acq thru foreclosure by Metropolitan, 5/84

   Metropolitan farms a 7 - 11% slope on this farm by planting corn in rows up and down the hills and using regular center pivot irrigation. Estimated soil loss is at 15-20 tons/acre/year.

3. Allen farm/Daviess Co, Mo./acq thru foreclosure by Mutual Benefit, 1985

   Steep and long hills (both) planted in beans up and down. Many bare sections, soil loss is heavy. Grain planted and left/substandard practice and yield. Absentee tenant (not former owner). Noxious weeds abundant.

4. Johanson farm/Lincoln Co., Minn./acq thru foreclosure by MONY, 6/84

   Land now farmed by big operator from Iowa (absentee tenant and owner), for the past three years. Johanson put in terraces--MONY's tenant is planting in rows right over them. Weeds taking over along roadside, ditches, and in CRP land.

5. Fehr farm/Palo Alto Co., Ia./acq thru foreclosure by Mutual Benefit/'85

   Severe soil loss on this farm. Local SCS DC had tried to get Mutual Benefit to reshape a major waterway on property. After attention raised to problem by the Land Stewardship Project, they cooperated with the SCS. Still severe loss on other fields--SCS estimate of between 9 - 14 tons/acre year, in addition to gullying.

6. farm/Palo Alto Co., Iowa/acq thru foreclosure by Travelers/1985

   Erosion so bad that in large area at bottom of hill that eroded subsoil 5 - 6 inches deep covers the black topsoil.

7. farm/Emmet Co., Ia/acq thru foreclosure by Metropolitan/1986

   Metropolitan bulldozed out a one acre grove of trees and a set of farm buildings and feeding floors that were recently constructed and in good shape.

8. Powell farm/Mercer Co., Mo./acq thru foreclosure by Mutual Benefit/1985

   Severe gullies forming on large field of corn planted in straight rows up and down hills.

9. Wicks farm/Taylor Co., Ia./acq thru foreclosure by Mut. Benefit, 2/86

   Corn planted up and down long, steep hills with gullying. Rows planted clear up to creek--streambank eroding and creek course changing. Every piece of available ground planted, regardless of appropriate use and conservation considerations.

10. Sitzman farm/Clarke Co., Ia./acq thru foreclosure by Hancock, 4/86

    Hancock has torn out grass and brush planted along creek bank to hold it. Streambank is eroding and the creek is changing course, after many years of the Sitzmans' efforts to hold it steady so they could farm the bottomland.

11. Thesing farm/Winona Co., Minn./acq thru foreclosure by Travelers/

    Conservation practices and structures have been neglected or damaged, resulting in excessive erosion, up to 30-40 tons/acre/year from 5 tons/acre/year when the Thesings farmed the land.

12. Paris farm/Davis Co., Ia./ acq thru foreclosure by Aetna/2/86?

    658 acres now in a corn and bean rotation farmed up and down steep hills. Estimated soil loss at 35 - 40 tons/acre/year (3 tons is tolerable).

Figure 1

U.S. Farm and Ranch Land
Held by Insurance Companies

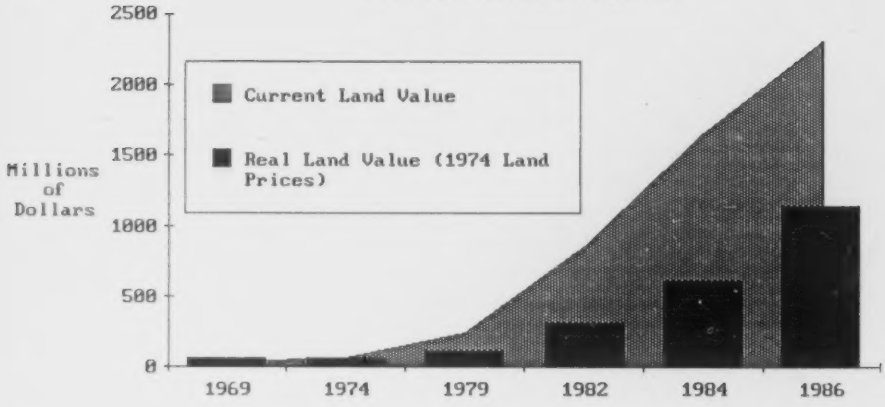


Figure 4

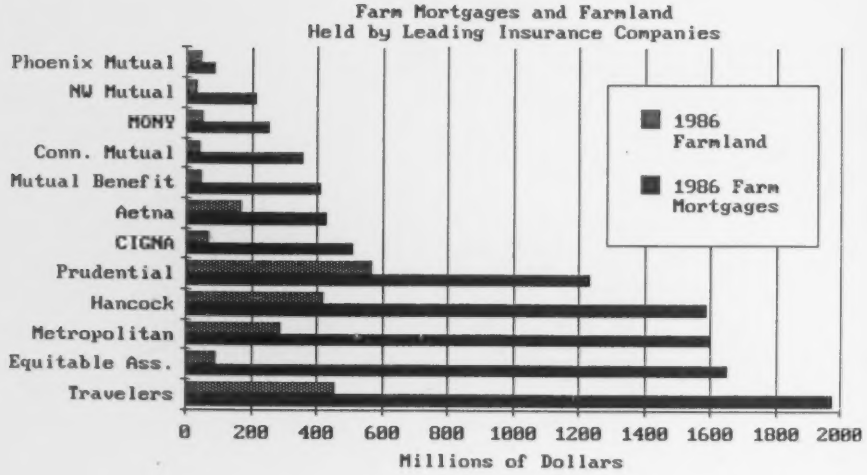

Farm Mortgages and Farmland
Held by Leading Insurance Companies
Phoenix Mutual
NW Mutual
MONY
Conn. Mutual
Mutual Benefit
Aetna
CIGNA
Prudential
Hancock
Metropolitan
Equitable Ass.
Travelers
1986 Farmland
1986 Farm Mortgages
0
200
400
600
800
1000
1200
1400
1600
1800
2000
Millions of Dollars

Figure 6

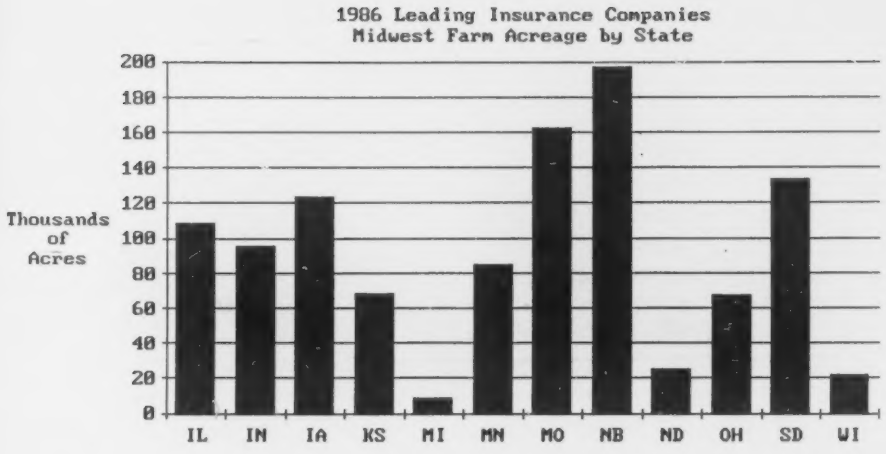
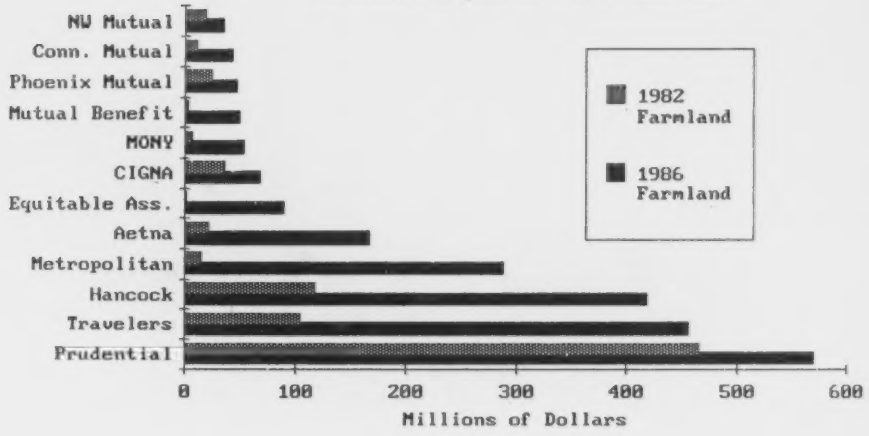

1986 Leading Insurance Companies
Midwest Farm Acreage by State
Thousands of Acres
200
180
160
140
120
100
80
60
40
20
0
IL
IN
IA
KS
MI
MN
MO
NB
ND
OH
SD
WI

Figure 7

Farmland Held by Leading
Insurance Companies - 1982 and 1986



MAJOR INSURANCE COMPANY FARM HOLDINGS (1986)

COMPANY	TOTAL U.S. HOLDINGS (Acres)
Aetna	415,000
Connecticut Mutual	128,000
CIGNA	215,000
Equitable	175,000
John Hancock	590,000
Metropolitan Life	510,000
Mutual Benefit	47,000
Mutual of New York	87,000
NW Mutual	50,000
Phoenix	45,000
Prudential	920,000
Travelers	890,000
Other	33,000
TOTAL	4,104,000 acres

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MAJOR INSURANCE COMPANY FARM HOLDINGS (1986)

Total U.S. Holdings: (millions of dollars)

Company	(1) $ value of farms owned	(2) $ value of mortgages	(3) # farm mortgages	total value of holdings (1 +2)
Aetna	$168.7	430.4	299	$599.1
CIGNA	69.5	725.7	1199	795.2
Connecticut Mutual	43.8	364.7	1,282	408.5
Equitable (NY)	91.2	1,653.8	14,910	1,745.0
John Hancock	419.5	1,576.8	3,242	1,996.3
K.C. Life	2.5	49.0	551	51.5
Metropolitan	289.6	1,604.8	14,155	1,894.4
Mutual Benefit	50.1	410.2	2,553	460.3
MONY	53.9	256.5	1,197	310.4
NW Mutual	35.7	213.7	539	249.4
NW National	8.9	22.0	72	30.9
Phoenix Mutual	47.2	87.4	1,007	134.6
Prudential	570.0	1,238.2	6,962	1,808.2
Travelers	456.8	1,974.8	5,365	2,431.6
TOTALS	$2,307.4	$10,608	53,333	12,915.4

(The totals above represent approximately 95% of total insurance industry holdings. Total reported value of farms owned represents 4,100,000 acres in the United States. This compares to FmHA ownership of 1.4 million acres and FCS ownership of 2 million acres.)

SOURCE: Schedules A and B of the Annual Insurance Reports (1986).

INSURANCE INDUSTRY FARM HOLDINGS (1986)

Minnesota holdings: (millions of dollars)

Company	(1) $ value of farms owned	(2) $ value of mortgages	(3) acres owned	total value of holdings (1 + 2)
Aetna	$11.9	$3.9	10,300 *	$15.8
CIGNA	.6	4.6	1,702	5.2
Connecticut Mutual	.2	8.8	3,191	9.0
Equitable (NY)	.1	77.4	200 *	77.5
John Hancock	9.1	25.3	8,924	34.4
Metropolitan	8.6	50.4	13,943	59.0
Mutual Benefit	2.4	13.9	1,959	16.3
Mutual Life (MONY)	.8	4.1	1,500 *	4.9
NW Mutual	.8	2.5	2,900 *	3.3
NW National	1.2	5.8	2,400 *	7.0
Phoenix Mutual	1.3	4.5	1,460	5.8
Prudential	.8	79.1	1,300 *	79.9
Travelers	26.3	53.8	35,776	80.1
TOTALS	$64.1	$334.1	85,555	$398.2

(The totals above represent approximately 95% of total insurance industry holdings in Minnesota.)

* Estimate based on reported $ value of land owned, using statewide 1986 average value of $609/acre.

SOURCE: Schedules A and B of the Annual Insurance Reports.

INSURANCE INDUSTRY FARM HOLDINGS (1986)

Iowa holdings: (millions of dollars)

Company	(1) $ value of farms owned	(2) $ value of mortgages	(3) acres owned	total $ value of holdings (1 + 2)
Aetna	$ 6.5	$ 4.6	8,831 *	$ 11.1
CIGNA	2.2	13.0	4,806	15.2
Conn. Mutual	0	0	0	0
Equitable (NY)	5.8	132.1	7,606 *	137.9
John Hancock	13.2	54.9	15,182	68.1
K.C. Life	0	1.5	0	1.5
Metropolitan	41.0	291.4	45,332	332.4
Mutual Benefit	19.9	121.1	15,762	141.0
Mutual Life (MONY)	3.7	13.5	2,424 *	17.2
NW Mutual	0	0.1	0	0.1
NW National	0.3	1.7	262 *	2.0
Phoenix Mutual	4.2	23.5	4,461 *	27.7
Preferred Risk	1.0	2.0 §	1,640	3.0 §
Prudential	0.8	57.3	785 *	58.1
Travellers	13.6	44.3	16,700	57.9
TOTALS	$112.2	$761.0	123,791	$873.2

(The totals above represent approximately 95% of total insurance industry holdings in Iowa. Approximately 78,000 acres were added to the industry's possession in 1986.)

* estimate based on reported dollar value of land owned, with $/acre value estimated by county. Where data were not available by county, the statewide 1986 average of $841/acre was used.

§ estimated

-- Source: Schedules A and B of the Annual Insurance Reports

INSURANCE INDUSTRY FARM HOLDINGS (1986)

Missouri holdings: (millions of dollars)

Company	(1) $ value of farms owned	(2) $ value of mortgages	(3) acres owned	total $ value of holdings (1 + 2)
Aetna	$ 7.3	$ 15.6	12,443 *	$ 22.9
CIGNA	7.7	39.1	16,784	46.8
Conn. Mutual	1.9	0.6	4,600	2.5
Equitable (NY)	12.2	54.2	18,061 *	66.4
John Hancock	8.1	23.1	20,162	31.2
K.C. Life	0.4	4.9	666 *	5.3
Metropolitan	8.9	37.8	12,433	46.7
Mutual Benefit	8.4	21.0	14,571	29.4
Mut. Life (MONY)	16.1	29.2	28,463 *	45.3
NW Mutual	0.0	1.7	0	1.7
NW National	0.2	0.0	343	0.2
Phoenix Mutual	7.0	21.0	14,323	28.0
Prudential	1.1	27.3	1,571 *	28.4
Travellers	10.2	15.1	17,893	25.3
TOTALS	$89.5	$290.6	162,313	$380.1

(The totals above represent approximately 95% of total insurance industry holdings in Missouri.)

* estimate based on reported $ value of land owned, with $/acre value estimated by county. Where the data was not available by county, the statewide 1986 average of $606/acre was used.

N.B. Approximately 75,000 acres were added to the industry's possession in 1986.

-- Source: Schedules A and B of the Annual Insurance Reports

The Washington Post

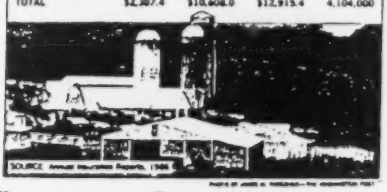
SUNDAY, JUNE 21, 1987

A10

MAJOR INSURANCE COMPANY FARM HOLDINGS

IN MILLIONS OF DOLLARS

COMPANY	VALUE OF FARMS	VALUE OF MORTGAGES	VALUE OF HOLDINGS	ACRES HELD
Aetna	$168.7	$430.4	$599.1	415,000
CIGNA	69.5	725.7	795.2	215,000
Connecticut Mutual	43.8	364.7	408.5	128,000
Equitable (N.Y.)	91.2	1,653.8	1,745.0	175,000
John Hancock	419.5	1,576.8	1,996.3	590,000
N.C. Life	2.5	49.0	51.5	NA
Metropolitan Life	289.8	1,604.8	1,894.4	510,000
Mutual Benefit	50.1	410.2	460.3	47,000
MONY	53.9	256.5	310.4	87,000
Northwest Mutual	35.7	213.7	249.4	50,000
Northwest National	8.9	22.0	30.9	NA
Phoenix Mutual	47.2	87.4	134.6	45,000
Prudential	570.0	1,238.2	1,808.2	920,000
Travelers	456.8	1,974.8	2,431.6	890,000
TOTAL	$2,307.4	$10,608.0	$12,915.4	4,104,000



SOURCE: Annual Insurance Reports, 1986

Insurers Benefiting In Farm Foreclosures

Firms Accumulate Land Through Crisis

By Ward Sinclair
Washington Post Staff Writer

The foreclosure was painful enough, but when a bulldozer showed up and began plowing under almost 40 years of farmer Herbert Jones' conservation handiwork, people in the town of Hamilton, Mo., drew a line in the sand.

A citizens' committee formed spontaneously and 200 protest letters were sent to the farm's new owner, the Mutual Benefit Life Insurance Co., hundreds of miles away in Newark, N.J.

The complaints got the company's attention. Mutual Benefit found a new tenant and promised that soil-conserving practices would be followed. The committee in Hamilton is not mollified, but the protest highlighted a growing phenomenon in farm country: the ownership of farm land by insurance companies.

"We are trying to find other farms in our area that the insurance firms own," said the Rev. Fred Royer, a leader of the Hamilton committee. "They are farming fence row to fence row, to get the most out of the land . . . The companies are not overseeing the land as they should; they can't, when they're hundreds of miles away. We feel we simply have to do something."

The rash of foreclosures and farm failures since 1982 has ballooned the inventory of insurance company-owned land to more than 4.1 million acres, with the likelihood that the number will grow before the economy gets better, according to new data from the Land Stewardship Project (LSP), a Stillwater, Minn., public-interest group.

Although insurers' holdings represent a tiny fraction of the national farm land base of about 400 million acres, they now control more than twice as much land as that taken back from farmers by the Farm Credit System, about 2 million acres, and the Farmers Home Administration, 1.4 million acres.

"The fact that insurance companies have become major landholders in the past five years is one of the little-noticed, but far-reaching effects of the farm crisis," said Ron Kroese, LSP's director.

Reviewing insurance company reports, researcher Mark Schultz estimated that the firms held about $2.3 billion in farm properties. In the Midwest, where the farm crisis has hit hardest, insurance companies doubled the value of their holdings through foreclosures in 1985 and continued accumulating more land last year.

In Iowa, for example, insurance company farm values rose from $49 million in 1985 to $111 million last year. South Dakota doubled to $20.5 million, Nebraska doubled to $64 million, Wisconsin rose 119 percent to $16.6 million.

In Minnesota, holdings went from $43 million to $64 million in a year.

Kroese, family-farm advocacy groups and some members of Congress have expressed alarm about control of large blocks of land by insurance companies and farm lenders, urging that ways be devised to assure that farm properties eventually are returned to farmers rather than sold to absentee investors.

"Ownership of large amounts of farm land by insurance companies is nothing new," Kroese said. "The same thing happened in the shakeup of American agriculture during the Great Depression that led to fewer people on the land. Another factor that concerns us is how that land itself is being farmed under insurance company absentee ownership."

According to Schultz's statistics, the leading farm property holder is Prudential, with 920,000 acres valued at $1.8 billion. Of that amount, a bit more than $1.2 billion involved 6,962 farm mortgages. The remainder, much of which is farmed by the company's agricultural division, was valued at $570 million.

Other major farm land owners in 1986 were Travelers, with 890,000 acres; John Hancock, 590,000 acres; Metropolitan Life, 510,000 acres, and Aetna, 415,000 acres. John Hancock was the overall leader in farm land values, with holdings just shy of $2 billion.

By comparison, Mutual Benefit, the company involved in the Missouri tiff, ranked 11th among insurers, with 47,000 acres valued at $50 million. The company, a farm lender since the late 1800s, concentrates its activities in the Corn Belt.

Absentee ownership by large companies is only one of the issues

"The companies are not overseeing the land as they should; they can't, when they're hundreds of miles away."

—the Rev. Fred Royer

concerning groups such as the LSP and the Hamilton committee. The way the land is husbanded, how the soil is conserved and the environment protected after it leaves the farmer-owner's care are other driving forces.

The Hamilton case came to the project's attention over its Farmland Protection Hotline, which was set up to identify conservation lapses and abuses on land taken over by insurance companies. The hot line has helped Kroese's organization pinpoint other cases.

Ted Simmons, a Mutual Benefit vice chairman, agreed that abuses had occurred on the old Jones property near Hamilton, but he said they were not condoned by the company. "We had a tenant and unfortunately a bulldozer operator got his heart around too fast and damage was done to soil-conservation structures," he said.

"Our general policy is to try to keep the owner on the land (through rental or lease-back), but it was not possible in this case," Simmons said. "We specifically have a policy that we will follow the best soil-conservation practices on our land. Our leases require that tenants follow the best practices . . . Land is a valuable asset to our policyholders and we must protect their investment."

A similar case in Minnesota drew national attention to LSP after the John Hancock Insurance Co. in 1984 foreclosed on an organically run, model dairy farm and allowed a new tenant to wipe out 27 years of conservation efforts. The Soil Conservation Service (SCS) reported a tenfold increase in soil erosion potential after the foreclosure.

Wabasha County residents, angered by the turn of events, mounted a letter-writing campaign and publicized the company's farm management practices. John Hancock has since agreed to sell the farm to a conservation-minded farmer and will require SCS-approved conservation plans on all of the 8,924 acres it owns in the state.

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July Books

Curran then and now; new fiction, Catholic and otherwise; Christian clowns and comets; just wars back?

Page 9

Victims of the farm crisis, Herbert and Mary Jones, pose in front of a few of their many agricultural awards — mementos of what they call "the good times."

Land called victim of insurance firms' ownership of farms

By TIM McCARTHY
Staff Writer
Hamilton, Mo.

REMOVING FAMILY farmers from the farm and replacing them with corporate tenants is a national trend that comes home to roost hard in an agricultural community such as this. Hamilton protesters charge that absentee landlords — in this case the Mutual Benefit Life Insurance Co. — are allowing tenants to farm millions of acres with an eye toward quick profits and often little, if any, regard for land stewardship.

Mark Schultz, an organizer with the Minnesota-based Land Stewardship Project (LSP), said insurance companies, which have accumulated more than three million acres of U.S. farmland, much of it through foreclosures during this decade's farm crisis, are among the worst offenders. With annual soil loss in some places jumping

(*See Farms, page 20*)

Farms

(Continued from page 1)

from three tons per acre to an estimated 35-40 tons per acre under insurance company ownership, the threat to the nation's farmland is so great that LSP established a farmland protection hotline to monitor abuses.

One of those who called the hotline was Herbert Jones, a longtime Hamilton-area farmer who lost nearly all of his 762-acre operation to Mutual Benefit in 1985. Jones, who managed to keep his house and 35 acres on the original homestead, watched the Mutual Benefit tenant bulldoze terraces, trees, ponds and fences on land Jones and his family had worked nearly 40 years to build up. The resulting soil erosion has scarred pasture and cropland that once won Jones awards for his conservation practices.

Mutual Benefit denied that any serious damage was done to the farm. Charles Duesler, vice president of the company's real estate division in Ames, Iowa, blamed an unsupervised bulldozer operator for the worst of the damage. Duesler said he had to call his Missouri district manager to the Ames office in 1985 because of an "avalanche of foreclosures." The bulldozer operator went on working without supervision and dozed 10-15 percent in excess of what Mutual Benefit would have done, Duesler said.

"Overall, what we did was not that harmful to the farm," Duesler concluded. "I have nothing to apologize for in the conduct of my company," he said.

"You need to walk the *farm*."

"Mutual Benefit didn't come down here and look at this the other day," Jones said, during a lengthy walking tour of the three farms he once worked as one. He explained that the worst of the damage could not be seen from the road. (Duesler admitted during a mid-June telephone interview that he had not walked the farm on any of his visits to Hamilton, but he said his district manager had.)

It was a sultry May morning. Jones, in cap and overalls, limping on what appeared to be a bum knee, strode the land for hours in 95-degree heat, barely breaking a sweat. Locals say the most frequent criticism heard about him was that he worked too hard. And his family worked with him — his wife, Mary, his son and two daughters. (Another son, who is retarded, still lives at home.) For years, their main recreation was to enter farm shows and fairs around the state — a family effort that adorned nearly every room of their white frame house with plaques, trophies, ribbons and certificates.

LSP's Schultz pointed out that, contrary to the popular perception that most of the people losing their farms were bad at farming, with the Joneses "we're talking about people who are very successful, experienced, quality farmers."

Jones bought the original 160 acres on a Mutual Benefit mortgage in 1948. He met all his payments for 35 years, until he overextended himself on the advice of local bankers and four years of dry weather pushed him over his head in debt. It has become an old and sometimes deadly sad story in the heartland.

Duesler said Mutual Benefit renewed Jones' loan twice, once in 1980 based upon higher land values, but refused his last request. "He had no capacity to meet his payments," Duesler said. The company foreclosed after what Duesler described as about a two-year process.

Local sources say Jones had developed a model farm for soil conservation. (Northern Missouri soil is fragile and erodes easily.) With the help of some federal money, he built terraces, ponds and diversions to control runoff. Judging that some of the land was never meant to be row cropped, Jones kept much of it in pasture for his better than 400-head of cattle. What he planted, mostly to wheat and corn, he contour plowed.

"I worked all my life puttin' all this in," Jones said, trudging the bulldozed pasture below the house. Now the slopes are gouged and rutmeled. Sweeping a sinewy arm toward the horizon, Jones said, "You can see where he scalped everything." An entire windbreak had been uprooted and bladed into a dam. Eroded topsoil had piled eight to 10 feet deep in behind the brush, Jones estimated, "and that ain't a countin' what's a-squirtin' on through."

Further down toward the bottomland along Lick Fork Creek, Jones pointed ahead. "There was big old walnut trees over there. And grass underneath 'em." His voice rose with indignation. "Cows could lay there. He (the bulldozer operator) put 'em in that ditch." The creek itself was clotted with uprooted trees and brush, a potential flood hazard to roads and bridges further downstream, Jones said.

Beyond the bottomland, there are rutted, rocky reaches that could as well have been in the desert Southwest. On one farm, steep fields had been planted straight up and down, rather than contoured. Summing up the damage, Jones said $100,000 would not bring the land back to where it should be. The insurance people are "just livin' on concrete," Jones said, and they do not know what good conservation practices are. "You need to walk the *farm!*" Jones declared.

"Now I'm stirred up some."

For some time after he lost his farm, Jones pretty much cut himself off from the community. Such a reaction is not uncommon, according to farm crisis experts. For men and women who are often reserved and steeped in a Puritan work ethic to begin with, loss of a farm can plunge them into guilt, leave them feeling isolated and bitter, alienated in the suspicion that their neighbors see them as bungling failures.

Foreclosure was an especially bitter pill for a man who had become used to dealing in $100,000 notes and suddenly found himself relying upon his daughters to buy him groceries. Both daughters were working in Kansas City, 90 miles south. By taking night jobs in fast food restaurants, in addition to their regular work, they were able to keep the family going and help salvage the house and 35 acres.

With his farming activity truncated, Jones turned his energy toward alerting Mutual Benefit and various politicians to the deteriorating condition of his land. He wanted to lease the land himself but the insurance company refused, though Duesler did travel to the nearby town of Cameron to meet with Jones and his son Wayne in July 1986.

Jones tried lobbying, even took his cause to Washington. The Missouri congressional delegation was no help (although Congressman Richard Gephardt, now a candidate for the Democratic presidential nomination, has recently shown some interest). Only Massachusetts Democratic Senator Edward Kennedy took note and traveled to Missouri to meet with Jones and some other farm families.

Then, in the fall of 1986, Missouri Lieutenant Governor Harriett Woods offered to make Jones' story a part of her hardhitting senatorial race with former governor Kit Bond. Bond, who went on to defeat Woods, was on the Mutual Benefit board of directors at the time.

Jones said that three days after he informed Mutual Benefit's New Jersey headquarters that he was going to put his story out, a company representative showed up and told him Mutual Benefit would start working with him on repairing damage to the land. Jones withheld his story.

Duesler denied there was any connection with the 1986 political campaign. He said Mutual Benefit was working with Wayne Jones at the time, with a view toward leasing him the land, but in the end Wayne "didn't qualify under our rules."

Herbert Jones reads it differently. "When March come this year, they dumped me again, so I got bitter," Jones said. "Now I'm stirred up some." It was then that Jones, searching for a way to focus his fight, called the LSP hotline.

LSP organizer Schultz showed up in town. Working through the Hamilton office of REACH (Rural Emergency Assistance/County Help), Schultz organized a letter-writing campaign to Mutual Benefit. The campaign called on the company to:

- Replace the quality conservation practices and structures removed by Mutual Benefit on the Jones farm.
- Guarantee the Jones family the first right of refusal to rent and/or purchase the land.
- Add strong provisions to all Mutual Benefit standard farm leases to insure that necessary conservation practices and structures will not be destroyed and that their farm operators follow a Soil Conservation Service recommended plan.
- Give all former borrowers first right of refusal if there is a foreclosure.

By late May, nearly 160 local citizens had joined the campaign. Hamilton's population is about 1,500. Jones realized his neighbors were not against him. He became friends with his pastor at the United Methodist church, the Reverend Fred Royer, who had been drawn into the campaign. Royer, still

Mark Schultz points to a spot where a ditch had eroded during his previous visit to the Jones farm two months earlier.

The concept of stewardship takes on biblical proportions, Schultz said, in the sense of caring for what is given to you and leaving it as good or better than you found it. That does not fit in with the corporate mentality, he said.

U.S. insurance industry farm holdings (1986)

(millions of dollars)

Company	Value of farms owned	Value of mortgages	Number of mortgages	Total value of holdings
Aetna	$ 168.9	$ 431	299	$ 599.9
CIGNA	69.5	511	1,199	580.5
Conn. Mutual	43.6	359	1,282	402.6
Equitable (NY)	91.7	1,653	14,910	1,744.7
John Hancock	419.3	1,590	3,242	2,009.3
K.C. Life	2.5	49	551	51.5
Metropolitan	289.1	1,605	14,155	1,894.1
Mutual Benefit	50.1	414	2,553	464.1
MONY	58.9	256	1,197	314.9
NW Mutual	35.8	213	539	248.8
NW National	8.9	22	72	30.9
Phoenix Mutual	47.1	87	1,007	134.1
Prudential	569.9	1,237	6,962	1,806.9
Travelers	424.0	1,979	5,365	2,403.0
Totals	$2,279.3	$10,406	53,333	$12,685.3

(The totals of the above 14 insurance companies represent approximately 95% of total insurance industry holdings. Total reported value of farms owned represents over 3 million acres in the United States. This compares to FmHA ownership of 1.4 million acres and FCS ownership of 2 million acres.)

Herbert Jones surveys damage on Lick Fork Creek.

something of a newcomer after transferring from the Ozark country far to the south, said Jones cause had helped him find his way into the community. In fact, he has become the spokesperson for the group of concerned citizens coordinated through the REACH office.

Contrary to speculation in Hamilton, Duesler said, the local protest effort had little effect on Mutual Benefit's actions. "We have been in a corrective stance since I first saw the farm in 1985," Duesler said. Reminded that the land was still in poor shape as late as last May, Duesler said that "in the process of rebuilding, you have a chaotic period and things look bad."

Whatever the effect of the protest effort, Duesler traveled to Hamilton to meet with a delegation of concerned citizens May 21. Mutual Benefit did not want Jones to take part in the meeting, which was supposed to be a negotiating session. No negotiations took place. Apparently angered by recent stories in the *Hamilton Advocate* and the *St. Joseph News-Press/Gazette*, Duesler read a curt statement accusing the Jones supporters of bad faith and left the room.

Royer, one of the delegates at the meeting, said that Duesler's attitude was "very hostile" but that he (Royer) had subsequently been in touch with Duesler's boss, Ted Simmons, a Mutual Benefit vice-chairman at the Newark headquarters. Simmons was conciliatory and appeared ready to reopen negotiations, Royer said.

A reporter's request for a telephone interview with Simmons was referred to Duesler, who said he was unaware of any change in Mutual Benefit's position since the May 21 meeting. Duesler said the company was working with the Caldwell county Soil Conservation District on a comprehensive, two-year conservation program for the Jones farm. Randy Robb, director of the Soil Conservation District, said it would be several weeks before he had a plan ready to show to Mutual Benefit.

"Somethin's goin' to have to give."

Schultz said that, in LSI®'s view, conservation practices were important, but the larger question involves stewardship. The concept of stewardship takes on biblical proportions, Schultz said, in the sense of caring for what is given to you and leaving it as good or better than you found it. That does not fit in with the corporate mentality, he said.

"We are willing to work with insurance companies on conservation practices," Schultz said, "but we don't think land can be adequately stewarded by multinational corporations that ultimately look at it on the black and white on a balance sheet. And that's why we work with family farmers."

Many Nebraskan voters appear to agree with that viewpoint. A recent amendment to the state constitution stipulates that all farms must be owner-operated. The amendment passed despite strong opposition from the Prudential Insurance Co., which had been speculating in Nebraska farmland.

Duesler said Mutual Benefit had never bought land in the corn belt as an investment. "We don't want the land," he said.

Whether Mutual Benefit wants the land or not, it now owns more than 14,500 acres in Missouri alone, according to the 1986 annual insurance reports.

That reality was very much in the air as Jones and the reporter, hungry after hours of walking the farm that day in May, shared a late lunch in a Hamilton restaurant. "This (Reagan) administration wanted to get rid of farmers because they think there's too many, but they don't *know* somebody else has got that land. They don't *know* that." Other sources familiar with the farm crisis think the government knows all too well who has the land.

Missouri Republican Senator John Danforth sounded fatalistic about it when Jones went to him with his story. As Jones remembers it, Danforth said, "You know what you're talking about. The big corporations are taking over and food prices are going to go up. But what can we do? It's *going* to happen."

Jones recalled how the banks kept urging farmers to "go get that FmHA (Farmers Home Administration) money" at low interest. "We'd been better off if we'd never heard of the FmHA," he said.

"They loaned this money to us in good faith — these banks — and we intended to pay it," Jones went on. "They got to stay with us."

But, in the end, Jones said he was as perplexed as anyone else about what could be done to cure the farm crisis. "Somethin's goin' to have to give somewhere," he said, "but I don't know where it's at."

Recalling a lobbying trip to Washington, Jones said he found a bunch of overeducated "kids" working there who "don't realize how it is out here on the farm." It will have to be folks in their 60s and 70s who unravel the situation, Jones concluded. The others "just got a job and could care less." ■

Unique aid center battles farm crisis

Hamilton, Mo.

ONE OF A KIND, the federally funded Rural Emergency Assistance/County Help center, much to the surprise of those involved with it here, has turned out to be something of a national pilot project. Designed to offer farm-crisis assistance in Caldwell county, the REACH center opened last December on a grant Hamilton received from ACTION, the federal agency that coordinates volunteer organizations such as the Peace Corps.

VISTA volunteer Judy Gardner, a local family farmer who helps staff the downtown Hamilton office, said that after REACH director Randy Railsback received word of the grant, he wrote to Washington to get the names of the other towns to be funded. Railsback knew 79 communities in Missouri alone had applied for grants, and he wanted to establish a network with other farm-crisis centers across the country. He was told that Hamilton was the only city funded.

Some observers might see that as another example of Reagan administration tokenism, but Railsback chose to read it as a challenge. REACH has been urging Caldwell county to show Washington that such aid centers are necessary — that the farm crisis is still deep and emergency assistance vital.

Caldwell county has responded. Along with Gardner and Railsback, codirector Lynn Barron and Martha Marengo, another VISTA volunteer, staff the bustling center. The telephone is busy. Local folks talk and share coffee and soft drinks around a long table centering the room.

Gardner said some people came in just to talk. Others might need help with a resume or a counseling referral. A job bank has been established, and the center organizes seminars, such as the one in March on a new bankruptcy law that applies to family farms alone. The center has also become involved in downtown redevelopment projects, including a community theater (rare in a town of 1,500).

"They come in with a question, and we try to find an answer," Railsback said. Responding to news reports that the farm crisis may have bottomed out, Railsback, who has a farm of his own, said, "Maybe it's bottomed out because it couldn't get much worse. Whether any of us will be left when the good times come — *that's* what's important."

Reports say there are not as many farmers in trouble, Railsback reasoned, but that is "because there are not as many left." The REACH center director saw little hope in that. For the most part, commodity and land prices are lower than ever, he said.

"People are tired," Railsback concluded. "They're just flat worn out. They've been fighting this thing for 10 years." —TM

THE HAMILTON
ADVOCATE
Continuing The Hamilton Advocate-Hamiltonian
& The Breckenridge Bulletin

Vol. 117, Issue 50 Hamilton, Caldwell County, Missouri Wednesday, June 24, 1987 30¢ Per Copy

Who will own and operate Caldwell County farmland in 1997?

Present policies favor large, absentee landowners, but that may change

The Future of the Land

Part III

By Anne Chadwick
[Last of a Series]

When a visitor drives through Caldwell County, especially if he gets off the major thoroughfares, he is often struck by the number of abandoned farmsteads.

Some of the empty homes and listing outbuildings are remnants of the cyclical changes in farming fortunes. Others were outgrown by families or discarded by a younger generation preferring modern, ranch-style homes to the energy-inefficient old farm homes.

Whatever the causes of the crumbling homes and barns seen on the county's back roads, some farmers and rural advocates fear the scene will become even more desolate in the next decade.

Though economists are saying that farm income is rebounding this year, people who live in the nation's heartland are girding themselves for continued hard times, including increasing numbers of displaced farmers, removed from their land through foreclosures and other creditor actions.

Several Local Families Face Potential Liquidation

Allen Gentry, county director of the Farmer Home Administration in Kingston, reports that 37 Caldwell County FmHA borrowers face potential liquidation of their farming assets. While the federal agency is now hamstrung by a federal court injunction from foreclosing on any more property, the wheels are in motion for a massive change here that will have implications for future generations of farmers, business people and Caldwell County communities.

Already some 12 percent of county land is in the hands of what most would term absentee landlords, including insurance companies and federal creditors, such as FmHA and the Farm Credit System. All signs point to an increase in such absentee ownership.

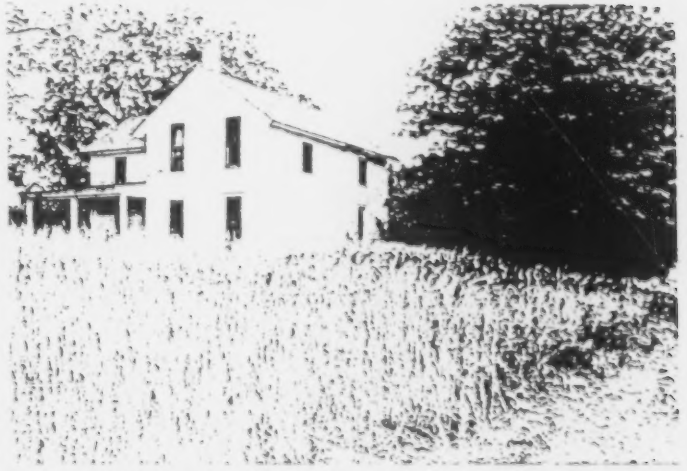
Gentry said he gets calls regularly from outside investors interested in farm real estate in Caldwell County. "A lot of them are retired and have some money they want to invest in real estate. Compared to the stock market, farmland has a lot of potential."

It's that potential that has farmers worried about whether they or their children will have a chance to own farmland in the next decade.

Farm real estate is just beginning to show signs of life, with many investors banking on a bottoming out of land prices. Bob Hines with Hines Realty in Hamilton reported that the firm has sold four parcels in recent months. "From nothing to four is a 400 percent increase. It was nothing but land transfers before," he said. These parcels were sold to local farmers, and prices ranged from $250 an acre to $600. Hines said lots of people are calling the office these days to check on prices.

Family farm advocates maintain that this is the right time and the first time in many years for small, efficient family farmers to get back into business or for younger farmers to get a start and be able to pay off

Please turn to back page



Abandoned farmsteads dot the countryside in rural Missouri and other states. The deepening farm crisis and factors that encourage absentee ownership of farmland have some family farm advocates worried that this will become an ever more familiar scene.

10 THE HAMILTON ADVOCATE Wednesday, June 24, 1987

The future of land ownership . . .

Continued from Page 1

their land with their production. But they say the policies and structures are not present to encourage family farm enterprises during this transition period. In fact, they say more is happening to encourage consolidation of farms into bigger holdings and selling to absentee landowners.

FmHA Procedures Discriminate Against Family Farms

The Center for Rural Affairs in Walthill, Nebr., is a 14-year-old think tank formed by a group of rural people concerned about the impact of federal policies on family farms and the viability of the rural economy due to inadvertent or purposeful policies. Over the years the center's staff has conducted inventories of such policies. Today, they are involved in a lawsuit against Farmers Home Administration for policies they feel will eventually lead to the widespread destruction of family farming.

Gene Severens, a staff attorney for the center, explained that upon taking land into its inventory, FmHA classifies the property as either "suitable" or "surplus". Land classified as suitable must be sold to persons who would normally be FmHA borrowers, or, those who have failed to get credit elsewhere. Land classified as surplus may be sold to ineligible buyers.

Severens reports that a study of FmHA land inventory sales has disclosed that much of the property is being sold on surplus, much of it for cash and to outside investors. The property involved in the federal lawsuit is 1,000 acres in Nebraska ranchland sold to a Washington, D.C., trustee. Another trustee with the same Washington address was already owner of an adjacent parcel.

The suit seeks to force FmHA to obey its own policy directives in favoring their eligible buyers. While it has been filed for a Nebraska farmer, Severens said the outcome could have a big effect on Missouri farmers.

Missouri leads the nation in the number of FmHA inventoried properties. While this state only ranks eighth in the number of inventoried properties sold, some 93 percent of the farms went to ineligible buyers.

"There needs to be study of who the farms are being sold to," said Severens, referring to a Des Moines Register investigation that found some 70 percent of inventoried land had been sold to outside investors.

In Nebraska, more than one-third of the land was sold for cash. "This is a dramatic new development," said the attorney. "It's difficult for family farmers to compete with that."

Apparently family farmers in Caldwell County are competing, though. Gentry says most of the parcels here that have been sold out of FmHA inventory have gone to local farmers. He noted that he hadn't declared any property as surplus initially. "After we don't get any qualified applicants to buy property, then we request that it be declared surplus." He said large tracts could be declared as surplus property initially. There is a cap on FmHA farm ownership loans that would make it impossible under current policies to sell such large tracts to FmHA-eligible buyers.

Members of the Center of Rural Affairs feel that precisely these kinds of policies and procedures will lead to an increase in tenant farmers, a trend that worries those concerned about the future of land stewardship and economically viable rural communities.

An Increase in Tenant Farming?

Don Paarlberg, professor emeritus of agricultural economics at Purdue University, has helped fan the fires of structural change in U. S. farming by a statement recently appearing in "Economic and Marketing Information for Missouri Agriculture". He said the financial stress in agriculture is due in large degree to the efforts of farmers to acquire ownership of the land. Though the idea is deeply imbedded in the U. S. farming tradition, it is not suited to modern times, said Paarlberg. "Apart from tradition, there is no more reason for a farmer to own the land than there is for the captain to own the ship."

That controversial statement has sparked heated rebuttals from all sectors of the farming and business community, including one of Paarlberg's colleagues, Missouri University's Harold Breimyer.

"Our country has favored an owner-operator agriculture, not because each farmer is so deserving of land of his own, but because we have believed that kind of agriculture to be better for farmers as a whole, or rural communities generally, or society itself."

"I stress not letting our valuable land resources drift into fewer hands. I don't want to see a feudal agriculture system. I don't want the food system to be in a few hands. I don't want a class society where you have a few wealthly landowners and a few poorly paid operators," the professor continued.

The Implications of Structural Changes in Farming

How would an increase in tenant farming affect Caldwell County and society in general?

Mark Schultz of the Land Stewardship Project in Stillwater, Minn., says an increase in tenant farming and absentee ownership of land would lead to more soil erosion and could eventually lead to the farm belt no longer being the fertile breadbasket of the nation. "And when we talk about stewardship we very directly mean what happens to communities and people. Communities are made up of nature and people; the people and the land are tied together. When we start treating land with abuse and neglect, we start treating communities and families in the same way."

Jack McCall, an economic development specialist with the University of Missouri Extension Service, has seen much of this happening already in the Green Hills area of North Missouri. "If the land is being farmed by absentee owners, we're losing population density, which in turn, means we'll lose most of the services dedicated to the agricultural sector. Single purpose towns (those dedicated almost exclusively to farm support services) are already in shocking disarray."

"The land is always going to be here, the land shapes the culture and is very much responsible for the development and preservation of certain values," he continued. "We'll shape the whole future of the nation by removing the relationship of the land from the people."

McCall predicted that if absentee ownership and tenant farming increase substantially, county governments will continue to feel financial constraints. "Roughly half of the tax bill for farmers is on personal property. If farm equipment is owned by a company from outside the county, that tax won't be collected by the county."

Observers also predict the death of more small rural communities and the continued growth of large regional trade centers, such as Chillicothe and Cameron.

Some Bright Spots

Many family farmers and concerned community leaders in rural America have expressed a sense of powerlessness in stemming the tide that could sweep them out the farm door. But for those dedicated to the concept of owner-operator agriculture and the continued viability of family farming, there are some bright spots.

Groups like the Land Stewardship Project and the Center for Rural Affairs are actively pushing for federal policy changes that would continue to encourage efficient family farming.

Gene Severens of the Center for Rural Affairs recently testified before the House agriculture committee on the need for FmHA to adhere to congressional mandates on giving preference to family size farmers in their land sales. "We're fairly encouraged at times. There is (in Congress) a legitimate interest in meritorious ideas. People hear you out. We don't have any political clout other than the validity of our ideas so we don't expect to wield much clout unless our ideas are valuable."

Wes Jackson of the Land Institute in Wichita, Kans., is hoping people will be attracted to the value of his "eyes to acres" ratio. That concept is a shorthand way to describe the need to have a lot of people on the land, says Jackson. "If land is to not erode, if it is to be run with a minimum of fossil fuel inputs and without massive chemicals, then it has to have a lot of people thinking about it and working it. Corporate farming won't do that. The people more likely to pay the necessary attention to the land are those that have a love for it."

The Land Institute is devoted to searching for "sustainable alternatives" in agriculture, including development of new types of prairie grasses and prevention of "epidemics that could visit a monoculture".

Other groups and organizations are seeking legislature changes at the state level. Minnesota and Iowa have both enacted strict anti-corporate farming laws. And in Minnesota, any corporation that destroys or removes conservation structures that were built with state money has to repay the state. Also, any tax incentitives to destroy permanent dwelling or farm buildings have been removed.

In Nebraska, Initiative 300 was passed four years ago with strong prohibitions against any non-family farm corporate ownership. The measure came up through the initiative process and each year faces a tough struggle for survival in the Nebraska legislature, but it remains

intact.

Harold Briemyer thinks that what FmHA, insurance companies and the Federal Credit System are currently doing to owner-operator agriculture is not enough to set a pattern for the future. "That will be set by the terms of financing, tax codes and national farm policy."

"If you want to protect family farming, you target payments to that segment," he asserted. The MU professor is not encouraged about that happening, especially during the present administration, which he said regards agriculture as a nuisance. "With the forces at work and overall attitudes, it will be impossible to retain traditional agriculture unless we change our minds and our national attitudes.

Solutions Begin at Local Level

Some think that changing attitudes has to begin at the local level and work its way to the top. The process is already taking place in Caldwell County.

Mark Schultz said the Land Stewardship Project is interested in working with communities that want to sustain the local economy. "There have to be healthy, thriving people buying things, supporting local banks, feed stores, etc. That's why we're willing to work on soil conservation projects with people who want to make their towns vibrant places."

Schultz has been working with a local committee trying to get Hamilton farmer Herb Jones back on land he lost to foreclosure to the Mutual Benefit Life Insurance Company. Though that has not yet happened, Schultz and local committee members feel they have made progress with the company. "I really believe that it's true that if you have a problem in Hamilton you don't try to get President Reagan to do something about it. You work on local solutions first," said Schultz.

McCall also believes answers should come from local people, those who will be most affected by changes in agriculture's structure. "If we don't do anything, the answers won't come in one piece. They will come over a period of time in dumb pieces and the results will probably be a disaster."

He is encouraged about the prospects for local solutions in working with Hamilton, Green City, Coffey, Pattonsburg, Trenton and Jamesport. "It's so contagious. The primary thing is that people are coming together and grasping the idea that the future is in their own hands. And a basic breakthrough is that people in communities are seeing that things that happen to them happen through and with and because of the economic structure."

He and other rural advocates favor policy discussions and land forums on the local level. They think more people should be talking and thinking deeply about how the economy affects them.

"I'm always fond of quoting Larry Snyder (Hamilton banker)," says McCall. "He says 'I live here because I like it. But I'm able to live here because I can make a living here.' "

Making a living, though becoming increasingly difficult in this area, has some favorable prospects here. Concludes Schultz, "In Hamilton, people are coming together and asking some harder questions and reaching for solutions that will work."

Senator FOWLER. Why don't we hear from Mr. Railsback and welcome Senator Bond from Missouri, who has just joined us, and I'm sure he will have some questions for both of you after we hear from Mr. Railsback.

Mr. KROESE. So Randy will go into more detail about the Mutual Benefit farm that I was going to show slides—he's got some of the same slides.

Senator FOWLER. Welcome, Mr. Railsback.

STATEMENT OF RANDY RAILSBACK, FARMER AND SOIL CONSERVATION DISTRICT SUPERVISOR, HAMILTON, MO

Mr. RAILSBACK. Thank you. Sir, if you will bear with me, I will show you some slides real quick. I am a farmer in Caldwell County, Missouri, and these slides I'm going to show you are actually five farms within 15 miles of where I live, so we didn't have to travel a long ways to get these pictures.

This is a field that is now in inventory by FmHA. There are 4,017 acres in Caldwell County, Missouri now that look like this. They came out with policy in January not to lease out their land unless there has been a prior lease on the farm. Thus they left the land idle, and stated that they were going to seed the land down—we just didn't realize that they were going to seed it down with sunflowers. The cutoff date for mowing off weeds on the ASCS program for set-aside acres is August 1. These pictures were taken on July 30. As you can see, they are a long ways from being mowed off.

These slides are more FmHA farms. These are not the same farms in the same fields.

As you can see, they are going down to seed and will be twice the problem next year. This is a farm owned by Travelers Insurance Company; this land was severely infested with thistles—this is a noxious weed. The prosecuting attorney in Caldwell County contacted the company I believe six times trying to get something done, and they eventually disked up the thistles, obviously after they went to seed and had dried up.

Senator FOWLER. How large is that farm?

Mr. RAILSBACK. This farm I believe is 1,120 acres. This is another farm in an adjoining county in FmHA inventory. As you can see, this gentleman standing—you can see a steel post right there beside him. There were 9,000 feet of terraces built on this farm with 4,000 feet of tile outlets. Where he is standing, that steel post, there should be a 2-foot tile outlet standing above that where the water will come into that outlet and drain out of the field—9,000 feet of terraces were built with a cost of over $12,000. FmHA has owned the land for 2 years now, and, as you can see, that post should be about 5 feet tall; there should be a 2-foot tile outlet there. It was filled up and no one was there to clean it out. Thus the water has diverted to the right side and we now have a ditch going through the terrace.

This is the same farm where they haven't cut out quite as bad. There should be terraces where they are standing. They have been disked over to the point where there is very little left.

You can see how deep this terrace is by the gentleman standing in there.

This land, as I said, is in FmHA inventory. If the man who owned this farm, who built these terraces, had allowed this to happen, ASCS would demand that he repay to the Government the money that was spent on these terraces. They have to be maintained for at least 10 years. These terraces are about 5 years old.

This is just a close-up shot. You can kind of see a dark place there beside that steel post; that's where the top of the 2-foot outlet is. It's just filled in and no one was there to keep it cleaned out.

This is a farm in an adjoining county, Daviess County, owned by Mutual Benefit. It had been 'dozed off and planted. As you can see, they are planting up and down the hills and it is almost impossible—the ground should not be planted anyway, it should be seeded down. There's not very much there to keep the ground from eroding.

This is the Mutual Benefit farm that has received a lot of the publicity. This farm was repossessed from the Herbert Jones family in March 1985. It was repossessed, 3 weeks later this 'dozer arrived, and thank goodness Mr. Jones had foresight to start taking pictures and document what was about to happen. This gentleman who owns this 'dozer had a loan with Mutual Benefit and had an agreement to do the so-called improvement work on this farm in exchange for working off his debt. The 'dozer arrived. Two houses with five barns were pushed in—that's what was the white house; a trench was dug; all the debris was pushed into the trench and then covered back up so it could be farmed over. Three Government ponds—I'm sorry that these slides are a little bit dark, but I think you can see—three Government ponds were filled up with brush and fences, and the debris that was pushed out alongside of these ponds was just pushed in there for lack of a better place to put them, I guess. These ponds were also built with Government cost-sharing.

A creek goes to the bottom part of this farm. There are 4,000 acres that drain into this creek above the Herbert Jones farm here. After he pushed about everything he could, I guess, he started shaving off trees on top of a bluff into this creek. Several black walnut trees—you can see the bluff behind there—there was nothing to be gained by shaving these trees off, it was just something to start pushing. This is a creek and not a pond. As you can see, it's starting to dam up.

There is a bridge a mile and a half below this brush that has been closed, and the Caldwell County commissioners want to build a new bridge there but they are afraid to build one yet until this is taken care of.

Senator FOWLER. Mr. Railsback, I think we get a pretty dramatic picture here, but in the interests of time we are going to have to——

Mr. RAILSBACK. I've got three slides left. This is a result of leaving the land idle after the natural cover and waterways are pushed out; we have erosion that is left uncontrolled. And that's what you get.

Senator FOWLER. Senator Bond.

STATEMENT OF HON. CHRISTOPHER S. "KIT" BOND, A U.S. SENATOR FROM MISSOURI

Senator BOND. Thank you very much, Mr. Chairman. I'll take just a moment, since this is the first meeting of the new subcommittee, to make a very brief statement, because I want you to know that I certainly look forward to working with you and to dealing with the very significant questions which this subcommittee will address.

Today's hearing addresses an issue which up to now has not received much scrutiny, so I want to commend you for giving us this opportunity. I think this is extremely important, what we are talking about today, and we look forward to hearing the information that is going to be presented by the witnesses.

Currently the Farm Credit System, along with the insurance companies, the Farmers Home Administration, own about 7½ million acres of farmland, most of the property having been acquired in the past 2 to 3 years. Most of it was turned over to the lenders as part of a settlement. For comparison's sake, insurance companies hold the greatest amount, owning about 4.1 million acres, with the Farm Credit System holding a little over 2 million, and the Farmers Home Administration about 1.4 million acres.

It's interesting to note that while the insurance companies hold over half of the acquired properties, the Farm Credit System makes over three times as many real estate loans.

However, today's hearing is not designed to look at the how's and why's of the situation, rather we can look at how we can best manage the properties, or how we can encourage the best management of the properties in the various inventories. From my perspective, I think it's very important for these properties to be returned to farm ownership. I believe sincerely that lenders do not want to be landlords, nor do I believe they are well-suited to be landlords. Therefore, I approach this issue with the basic belief that all proposals should be weighed as to how they can assist moving the property back into farmers' hands.

Clearly, an owner has a greater incentive to be a better steward than a tenant does. So I hope we will hear ideas to make this happen.

I also believe we must recognize the type of acreage we are dealing with. While many of the acres of acquired property could be considered good farmland, just about as much is in the marginal category. Perhaps the best conserving practice on this property is to let it go back to grasses and permanently retire it from production.

Unfortunately, the Conservation Reserve Program's current rules make this very difficult for a lender. Perhaps we should take a look at those rules as well.

Mr. Chairman, I don't want to start a bad precedent for the subcommittee by having an extensive opening statement, so I will conclude merely by saying that we should take a hard look at the land stewardship practices of all tenant-landlord managements and do what we can to encourage good conservation practices.

Senator FOWLER. Thank you, Senator Bond, for that statement.

Senator BOND. With respect to the information these witnesses have given us, I'd like to address both of them to ask: Is it your experience that the properties are leased back to other farmers? And, if so, what kind of farmers are the inventoried lands leased back to? Are there any differences in the treatment by the lender in terms of how these inventoried properties are handled—the Farm Credit System, Farmers Home, or insurance companies?

Mr. KROESE. I'll speak briefly about the first part of the question and Randy can take it over. The land, for example, that I described which Hancock in Minnesota took over is put out for bid to be rented for cropland. And the trouble there was that the price of the rent that the insurance company wanted, the dairy farmer didn't feel that he could afford to make it because of his not having a large enough crop base for the Federal commodity program. In other words, a dairy farmer couldn't afford to farm the land at the price that Hancock wanted for rent. So it ended up going to a large cash grain farmer. And that's why the conservation structures were destroyed on it.

So generally I would say it tends to go to larger farmers who are in a position to rent more property.

Mr. RAILSBACK. Well, oftentimes large companies tend to rent to large operators. The statement is oftentimes made that they look at positive net worth when procuring a renter rather than farming ability. For instance, this farm we are looking at right here, the first 2 years that they owned it they rented it to an individual who lived 50 miles away. This year it's rented to another farmer who lives 15 miles away. Well, there is a number of us right around the area that obviously would be quite capable of renting the land, but we do not have the net worth to compare with larger operators. For instance, the individual that rents this place also owns a commodity brokerage firm and is into a number of different areas. He does not actually sit on the tractor and farm the ground; it's all hired done, you see. You are looking at people who are wanting to get bigger.

To address the issue as to what really can be done, the point we are really trying to make here is: the individual who is best suited to take care of this farm is the man who owned it. For instance, this gentleman owned this place for 35 years before it was foreclosed on. We can debate forever as far as whether farmers should and how often should they be foreclosed on. The fact is he is living there right now. If you are going to have to foreclose on him, then so be it. But let's take a good look at renting the place back to him.

Senator BOND. To what extent does that happen? In terms of total acreage, how many acres in the various inventories are rented back to the former owner?

Mr. RAILSBACK. Just for instance in Caldwell County, we have 4,268 acres in insurance inventory. As far as we could find, not one of them was rented back to the original owner. Now, in all fairness, a couple of these farms, the guy had had it and he didn't want it back. But oftentimes they did want to rent the place back, if nothing else but to stay in the house. And not one case——

Senator FOWLER. What is your evaluation of the soil or conservation practices on inventoried property held by the Farmers Home and the Farm Credit System, from your experience?

Mr. RAILSBACK. Well, sir, I think that on an individual basis they probably all know that there is a lot of work and a lot of attention that needs to be done to these farms, but, as we stated before, it's simply that the manpower out there cannot take care of that.

Senator FOWLER. Both the Government inventory and the insurance company?

Mr. RAILSBACK. Yes, sir. An average size farm in Missouri is around 300 acres. When Mutual Benefit—just for instance, not that we are picking on them so much, but they have 14,000 acres in northwest Missouri and one man to watch it—one man. Well, if we get a hard 2-inch rain some place—and he doesn't run around and check and see if we've got ditches started some place—the FmHA supervisor certainly doesn't have time to run out and check his inventoried land; he has one assistant in his office and two secretaries. Well, they are overwhelmed with loans and such as that, and there is no way they can run out and take care of this land. They've known since January, for instance, that they were not going to rent out that land, and here it is the first of August. The third week of August they are going to have a training session in Columbia, Missouri, to tell the FmHA supervisors how to take care of their inventoried land and how to hire someone to manage it. In the meantime we have had 8 or 9 months that the land has set idle. There could easily be many ditches out there, but you can't even see them for the weeds right now. It's really a matter of space, what is feasibly possible for one or a few individuals to do; that's why the small family farmer has been so important to our food production all these years.

Senator BOND. Well, one of the things, obviously that we find is that many young farmers find that the easiest and best way to get into agriculture, if they haven't inherited land, is to start out by renting the land, and many of the family farmers looking to bring another son into the operation rent another quarter section or so, and these people, in my experience, make up the vast majority of the tenant farmers in the United States. Yet in many instances these are the same people who are accused of misusing the acquired properties. It is not the person who is the supervisor who ought to be handling the immediate problems where there is a 2-inch rain; it's the person who is on the land, whether that tenant be a major operation which goes to the added cost of hiring somebody to farm it, or whether it is a young farmer.

Do you think that there ought to be a difference in treatment as to the nature of the farmer? If the renter is the one who is doing the farming himself, or if it's through a corporation, do you see that there ought to be a different treatment somehow?

Mr. RAILSBACK. No, sir, I don't. I believe that what we need to do is define responsibility. Who is responsible for that land and who is responsible for taking care of it? Most insurance companies and other agencies will tell you they have a lease and in their lease they will have something to the effect that good conservation practices will be followed and maintained. Well, that is an extremely vague statement to make. It's easy to say that we have a provision in our contract, but what does it actually say? And oftentimes, like I said, these companies usually are not in a long-term ownership;

they are not in for the long term, they are in for the short-term gains.

Senator BOND. Well, most of them had no intention of owning the farmland in the first place.

Mr. RAILSBACK. But what happens is we get into intensified farming, quickly, getting as much as possible. Well, good conservation and intensified farming usually do not mix. So you have a renter who is under pressure to do as much as possible; he's under pressure because he's got to make as much money as possible. What we do not have is clearly defined roles as to who is actually responsible for taking care of that land during that lease.

Senator BOND. But don't you think there's an economic incentive for the person who owns the land to maintain good conservation practices? If you want to sell it, if you have to get it out of your inventory, you are going to get a better price for land which has not been eroded, which has not lost its terracing, been silted over or destroyed. Isn't there a strong economic incentive to conserve the land because it's not held as an income-generating property, it is an asset that ultimately has to be sold to minimize the loss on a bad loan. Is that a fair statement?

Mr. RAILSBACK. Yes, it is a fair statement, but what we can really say here is that pride of ownership is what makes the difference between a family farm operator and an absentee landowner, the pride of going out there and going through the effort to take care of that land, plus the fact that you have one farmer on, say, 400 acres, or you have one individual who is supposed to take care of 14,000 acres.

Senator BOND. What do you mean, take care of?

Mr. RAILSBACK. Manage.

Senator BOND. Manage or operate. Are you saying that there ought to be a maximum that any one person in the Farmers Home Administration can supervise? Are you saying that there ought to be a maximum amount of land that any one farmer can have direct responsibility for farming? They are two different functions, I think.

Mr. RAILSBACK. And you also have a difference in the lay of the land. As you well know what Missouri is like, you can go to another State and one individual could maintain a lot more land than he could in Missouri, because of the lay of the land—the hills and such like that.

What I am really saying is I am sure that no insurance company would stand here and say, well, we really don't care what it looks like. Obviously they want it to look as best as possible because they want to turn around and resell it. But the fact is we can't control the weather, and if we have a severe rain and erosion starts and nobody goes out to check it, there it is.

Senator BOND. I've flown over north Missouri after a 12-inch rain in June 1984, and you could see the topsoil completely eroded all over the place, and it didn't matter who was there at the time when the weather doesn't cooperate. Do you have suggestions for this committee on steps that we should take with respect to all of these different types of lenders who have come into possession of farmlands?

Mr. RAILSBACK. If I may, I will just make two brief statements and then I'll turn it back over to Ron. Like I said before, the best possible solution is simply to leave the farmer there so he can watch it, rent it back to him with the incentive that he may some day own it again. But in the meantime there are some States that have provisions to protect the land and require corporations to properly maintain and not allow conservation practices to be destroyed. I am supervisor on the Caldwell County Soil and Water Conservation District. We have recently undertaken the decision that anyone who cost-shares with us in an amount over $1,500, which is not that much, must sign a maintenance agreement, and that maintenance agreement is filed at the courthouse and goes along with the farm. If there is a transfer of ownership, that agreement stays with it, so that you can't get out of the responsibility simply by selling it.

Senator BOND. I think that is an excellent provision, and I commend you for that. That is certainly something that I would commend to other districts as well.

Mr. RAILSBACK. And it certainly would not be a hard law to implement. It's simply the fact that those terraces, those waterways, are still going to be on that farm regardless of who owns it, and the responsibility must lie some place. So I will turn it back over to Ron.

Senator FOWLER. I'm going to have to ask you to sum up. You've both done an excellent job of describing the problem. We owe it to those who come after to see if we can figure out what to do about it.

Mr. KROESE. Well, I was just going to say, the last thing looking toward the future, I know there is talk about the idea of some sort of a secondary mortgage market or some sort of guarantee to back, even to private creditors, with Government guarantees. I think that might be a time for some real action on the part of the Government, to put the kind of cross-compliance and antisodbusting and swampbusting provisions on all loans that the Federal Government has any sort of connection to. Lenders would be required to live up to the conservation requirements just the way they now do with the Farmers Home Administration.

So I think that would be another way to really get at it in the future. That wouldn't deal with the lands we've got in inventory now, but it deals with the situation that there is probably going to be credit coming from private corporations in the future, and that would be a preventive measure.

With regard to the Conservation Reserve Program, I think one way to help people get going and to guarantee a price for farms would be the conservation reserve. If insurance companies for example were to sell that land, even if it's to a new buyer that's a local farmer, let part of that land go into the conservation reserve after the sale.

Senator FOWLER. Thank you both very much for your testimony.

Next we have Mr. John Lord, Jr., vice president of John Hancock Insurance Company, Boston, and Mr. Charles Miehe, chairman of the board of the St. Paul District of the Farm Credit System.

Mr. Lord, welcome. Do you want to start off?

STATEMENT OF JOHN M. LORD JR., SECOND VICE PRESIDENT, JOHN HANCOCK INSURANCE CO., BOSTON, MA

Mr. LORD. Thank you, Mr. Chairman, and thank you for this opportunity to be with you this morning to consider some of the changes affecting one of our great natural resources, our farmland. I am John Lord, second vice president in the agricultural investment department at John Hancock. I manage investment portfolios of farm and timberland; I've been with the company for 6 years. By background, I have a graduate degree in resource economics from the University of Vermont.

I am here representing John Hancock today, but I would also like to tell you what I know about the activities of other insurance companies as pertains to farmland today. What I would like to do, very briefly, is sketch the evolution of changes in our farmland ownership position, describe how we manage our land, following a private conservation ethic, and then explain why we are advocating some changes in the Conservation Reserve Program that would make it more practical for institutional farmland owners to participate.

Our industry has been active in the farm community for over a century. Many of the insurance companies which bring financial services to farmers today, including our own, began back in the late 1800's, making farm mortgage loans. We have stayed with the business through many ups and downs, including the Great Depression. And that was another time, incidentally, when lenders acquired many farms, virtually all of which were resold to individuals in the years that followed.

The insurance industry currently holds about 12 percent of farm mortgage loans outstanding. Agricultural investing has been a good business for us. And though we have had our share of problems in the current recession, we are determined to play a vital role serving the financial needs of agriculture in the future.

But our role is changing both in response to financial markets and in response to changes in the farm economy.

As everyone well knows, the farm economy has suffered severe dislocations and restructurings in recent years. Many farmers have been unable to continue in operation, and personal hardships have been great.

One consequence of the recession has been the acquisition of land by lenders in satisfaction of debt. We are now major holders of agricultural land.

And let me interject one important point about foreclosure: it's our last choice. We make a diligent effort to work with borrowers to try to find alternative solutions, and many times we are able to do that, in fact most times. Regrettably, however, taking title, either voluntarily or through foreclosure, becomes inevitable in some cases.

In discussing our ownership position, I should begin by explaining frankly that we do not yet have abundant data on the life insurance industry's land ownership. Our trade association, the American Council of Life Insurance, has historically kept track of loan portfolios and not land portfolios. But we are making an effort to gather data on that now.

But I can give you the scope of the issue. As of the year-end 1986, the 16 largest insurance company agricultural investors owned farm real estate valued at approximately $2.1 billion. Of this, approximately $1.3 billion was acquired in satisfaction of debt.

I have seen the figures that you mentioned earlier, indicating that the industry owns some 4 million acres. This is probably in the ballpark—it may be a little bit low. To put that in perspective, however, this is somewhat less than 1 percent of the 465 million acres of cropland in the United States and a mere fraction of the 1 billion acres of all farm and ranchland in the United States.

The industry's holdings do include ranchlands and farmlands, and these come in large units. And also some of our lands were acquired intentionally for investment. Farmland has been and will be again an attractive way for both individuals and institutional investors to place a portion of their assets.

Estimates are that about 10 to 15 percent of this inventory would qualify for the Conservation Reserve Program. But before I speak to the CRP specifically, I would like to describe our method of management.

Life insurance companies that have acquired farmland have either built, bought, or hired professional farm management organizations to manage their landholdings. These management organizations are staffed with experienced, highly trained individuals who have the skills to oversee diverse operations. They live locally, and they are familiar with the farming methods and conservation practices pertinent to the areas in which they operate.

Nearly all farms have been leased to local farmers, and in many cases to the former owner. One of the principal responsibilities of the farm managers is to find qualified local operators who will not only make a good crop, but who will also care properly for the farm.

Upgrading and maintaining a productive capacity of a farm is a priority with institutional owners. And, frankly, many of the farms need it. By the time we get them, in many cases, they are in poor shape. Former owners under financial stress cut back to make ends meet. Often the soil fertility is depleted and improvements deteriorated by the time we acquire it. Fortunately, we have the resources to restore and maintain these farms, and it only makes sense: a more productive farm is a more valuable farm. So aside from our institutional pride as owners, the professional pride of farm managers, and the traditional pride of our local farm operators, there is an economic incentive to practice good conservation.

But we, as others, also acknowledge that there is land being farmed today that ought not to be in production. Highly erodible lands especially are often better kept idle. The CRP is designed to provide an economic incentive to protect these fragile lands. Unfortunately, the 3-year holding requirement imposed by the Department of Agriculture discourages institutional holders from bidding in eligible land. So farming continues producing surplus crops. For example, should an insurance company themselves bid land into the CRP and sell the land, subsequent owners would be able to take the land only subject to the limitations in a pro rata participation in the original bid proceeds. If companies do not bid land into

the program and sell off acreage, the new owners would have to wait 3 years before being eligible to bid the land in.

In view of the laudable goals of increasing sound conservation practices through the CRP, we feel it's necessary that the original legislation be amended. We are very much encouraged to see that Senator Nunn in Senate bill 1521, which he recently introduced, addressed this very problem. What the Nunn provision would do is in effect waive the 3-year requirement for the subsequent purchasers of this land so long as that purchaser was a farmer operator. Under this change, the Secretary would be permitted to enter into a CRP contract with owners and operators who acquired land through involuntary foreclosure or through deed in lieu of foreclosure. The ownership and operation requirement of the proposed legislation would ensure that only existing individuals or other entities be permitted to bid their land into the CRP. It's a chief concern to allow only those actually engaged in farming or farm management to benefit from the CRP.

The beauty of this approach, as we see it, is that it promotes the objectives of the CRP, it enhances agricultural land values, limits production of surplus crops on marginal land, and prevents abuse of the program.

From our point of view, the fact that a farmer who purchases this land will be eligible to participate enhances his interest in making such a purchase, and promotes the objective of returning agricultural land to farmers.

Thank you. I'd be glad to answer questions.

[The prepared statement of Mr. Lord follows:]

UNITED STATES SENATE
COMMITTEE ON AGRICULTURE, NUTRITION
AND FORESTRY, SUBCOMMITTEE ON
CONSERVATION AND FORESTRY

MANAGEMENT OF INVENTORY PROPERTIES
OF AGRICULTURAL LENDERS

STATEMENT OF THE JOHN HANCOCK COMPANY

My name is John M. Lord. I am a Second Vice President with the John Hancock Company. As Second Vice President I am responsible for managing investment portfolios of farm and timber real estate. I have been with the John Hancock Company for the past six years. I have a Masters in Resource Economics from the University of Vermont.

The John Hancock Company appreciates the opportunity to appear before the subcommittee to discuss the management of inventory properties of agricultural lenders. The John Hancock Company, like many institutional lenders, has made and continues to make agricultural loans. In making these loans there was always an expectation that the farmer borrowers would farm the land and over a period of time, repay the loan. However, due to the farm crisis a significant number of loans became delinquent. As a result, many institutional lenders found that they became land owners, either by involuntary foreclosure or through acquisition of a deed in lieu of foreclosure. It is not the desire of my company, or of other insurance companies to own all of this land on a long term basis.

Furthermore, consistent with the historical policy of this country, we believe members of this subcommittee would share the view that it would be in the national interest to pursue policies that would result eventually in returning a substantial part of this land to individual family farmers. We are currently doing our best, consistent with sound economic policy for our companies, to effectuate this.

The American Council of Life Insurance Companies has collected figures relating to the total dollar value of land held in inventory. The total dollar value for farm real estate owned by the 16 largest insurance company holders is approximately $2.1 billion. Of this, approximately $1.3 billion was property acquired through involuntary foreclosure or deed in lieu of foreclosure.

I have seen figures which estimates that there is approximately 4 million acres of farm real estate currently in inventory for the major insurance companies. I have no reason to dispute this acreage figure. Certainly, there is a substantial amount of foreclosed land in inventory. Further, it is expected that a significant portion of this land is of marginal quality. A portion of this land is highly erodible and therefore, at least conceptually is land well suited for the Conservation Reserve Program ("CRP"). Our best estimate is that approximately 300-500,000 acres would probably qualify for participation in the CRP.

Under the CRP, the owner or operator entering into the contract with the Department of Agriculture ("the Department") agrees to implement an approved conservation program. In exchange, the Department will provide technical assistance in developing and executing the conservation plan and will make an annual rental payment to the owner or operator for taking the land out of production. 16 U.S.C. § 3833. This rental payment may not exceed $50,000 per fiscal year. In order to participate in the CRP there are certain eligibility requirements. Of particular importance is the requirement that the owner or operator have a three year history with the particular farm in question. 16 U.S.C. § 3835.

Holders of involuntarily acquired land are discouraged from returning land to traditional farm ownership because of certain of the Department's restrictive regulations. For example, should insurance companies themselves bid their land into the CRP, subsequent owners would take the land subject to the limitations of the original bids and only be eligible for a pro rata share of the Federal payment. If the companies do not bid the land into the CRP and sell off acreage, new owners would have to wait three years before being eligible to bid the land into the CRP. In the meantime, highly erodible land continues to be farmed on a lease basis.

In view of the laudable goals of increasing sound conservation practices through the CRP and the Department's unwillingness to exercise its discretion to waive the three year holding requirement, it is necessary that the original CRP legislation be amended.

We were very encouraged to see that Senator Nunn, in S. 1521 which he recently introduced, addressed this very problem. What the Nunn provision would do is in effect waive the three-year requirement for the subsequent purchasers of this land so long as that purchaser was a farmer/operator. Under this change, the Secretary would be permitted to enter into a CRP contract with owners and operators who acquired land through involuntary foreclosure or through a deed in lieu of foreclosure. The ownership and operation requirement of the proposed legislation would ensure that only existing individuals or other entities be permitted to bid their land into the CRP. It is of chief concern to allow only those actually engaged in farming or farm management to benefit from the CRP.

The beauty of this approach is that it promotes the objectives of the CRP, enhances agricultural land values, limits production of surplus commodities on marginal land, and prevents possible abuse of the program.

By requiring the purchaser to be an actual farm operator, it prevents speculators or pure investors from purchasing this land in order to benefit from the CRP.

From our point of view, the fact that the farmer who purchases this land will be eligible to participate enhances his interest in making such a purchase and promotes the objective of returning agricultural land to farmers.

Respectfully submitted,

John M. Lord, Jr.
Second Vice President
John Hancock Insurance Company

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Senator FOWLER. Thank you, Mr. Lord. Let's go ahead and get the other testimony, and then we'll talk to both of you.

Mr. Miehe.

STATEMENT OF CHARLES MIEHE, THE FARM CREDIT COUNCIL, CHAIRMAN OF THE BOARD, FARM CREDIT SERVICES OF ST. PAUL, ST. PAUL, MN, ACCOMPANIED BY RON BUSHLACK, DIRECTOR OF SPECIAL CREDIT

Mr. MIEHE. Thank you, Mr. Chairman and Senator Bond, for the opportunity to appear here today. I bring with me our director of special credit in St. Paul, Mr. Ron Bushlack. If we have any questions later on that he can address, I'd like to call upon him.

Senator FOWLER. You are both welcome.

Mr. MIEHE. Mr. Chairman, my name is Charles Miehe. My wife and I, along with one of my sons and his family, operate a 312-acre dairy, beef, and grain farm in southwest Wisconsin; also one of my daughters and her husband, near to us, have just bought a farm that they have also put under a conservation plan. We purchased our farm 30 years ago, after farming on a tenant basis for 5 years, and the farm was being farmed in an up-and-down-the-hill fashion. During the period of time since then we have put it all into conservation strips, conservation tillage, and established a couple of farm ponds and fencerow habitat for wildlife—pheasant, partridge, deer, whatever. So I know the joy of rounding a contour and having deer jump into the corn or over the roses and also watching the pheasants fight, as they do. It's a real joy also coming around the contours and watching the bass jump in the pond and I don't have time to go get them.

Senator FOWLER. I'd make time, if I were you.

Mr. MIEHE. I am a member of the Production Credit Association and the Federal Land Bank Association of Southwest Wisconsin and presently serving as chairman of the district board of Farm Credit Services of St. Paul. I am a member of the boards of directors of the Farm Credit Council and Farm Credit Corporation of America. In the past our family has been the recipient of the Lafayette County Soil and Conservation Award and the County Wildlife Habitat Award.

I am here today to present to you the Farm Credit System's views on some specific aspects of the USDA Conservation Reserve Program, and on soil and water conservation as it relates to the sale or financing of agricultural properties.

The Farm Credit System's position on soil and water conservation is expressed in a Farm Credit Council resolution developed through grassroots input of its members. I would like to read that resolution to you.

"As the largest provider of credit to agriculture, the member institutions of the Farm Credit Council have a substantial stake in encouraging good soil conservation practices. The Council recognizes and strongly supports the need to maintain the productivity of soil resources. The Council will seek changes in current law to allow highly erodible farm properties acquired by financial institutions to be placed in the conservation reserve. In addition to preserving soil and water resources, this change will reduce govern-

ment price support costs and the oversupply of farm products. The Council will also oppose efforts that would require private lending institutions to impose loan approval restrictions on farmers and ranchers to meet soil and water conservation objectives."

Mr. Chairman, there are two major issues I would like to address today on behalf of the institutions and members of the Farm Credit System. The first concerns the ability of agricultural lenders to enroll the highly erodible land in the USDA Conservation Reserve Program. The second has to do with the issue of our opposition to statutory conservation requirements relating to the sale and/or financing of farm real estate.

Regarding the Conservation Reserve Program, the Farm Credit System has asked Congress for legislation that would allow greater participation in this program by all lenders to agriculture.

Under current USDA regulations, eligible land can be enrolled in the CRP if the owner held title to the land on January 1, 1985, and annually tilled crops were grown on that land at least once during the period of 1981 to 1985.

The result of these regulations is that land acquired by lenders which meets the provisions specified in title XII of the Food Security Act of 1985, but not enrolled in the CRP when acquired, cannot be enrolled. However, section 1235(a)(1) of the 1985 act authorizes the Secretary of Agriculture to allow enrollment of land where ownership has changed in the 3-year period preceding the first year of the contract if "the Secretary determines that the land was acquired under circumstances that give adequate assurance that such land was not acquired for the purpose of placing it in the program established by this schedule."

We believe this provision in the act allows the Secretary the discretion to permit lenders to enroll eligible land.

In addition, USDA regulations limit lending institution participation in another way. Under current regulations, once an institution has signed up a sufficient quantity of property to hit the $50,000 payment limitation, it is prohibited from signing up any additional property in that calendar year even if all of the institution's enrolled property is sold and it would receive no payment whatsoever. Our concern, Mr. Chairman, is not that we be able to receive more than $50,000 in payments, but that we are able to enroll all eligible acquired property in the program and sell that property with the contract attached.

We believe that a change in the current USDA regulations to allow all agricultural lenders to enroll eligible, highly erodible land in the CRP serves to further the objectives of Congress and would benefit both agricultural producers and their lenders. We have discussed these matters on numerous occasions with USDA, but as yet to no avail.

Senator FOWLER. Excuse me, what you are advocating is to make the Conservation Reserve Program mandatory for marginal lands held by the Farm Credit System in inventory?

Mr. MIEHE. Not mandatory, but allow us to enroll it in there so then it could be moved to other owners.

Senator BOND. The Farm Credit System wouldn't receive any of the CRP payments, but under your proposal, any other farm lender who had foreclosed would be able to enroll the program—I assume

you would have to set the bid price, and if the land was accepted, then, when it was transferred, it would be eligible for the CRP payments.

Mr. MIEHE. Yes, sir.

Senator BOND. Would you put limits on the type of person, the type of entity, to whom that farm could be sold to receive the payments?

Mr. MIEHE. I touch on that a little bit later in the prepared testimony, and it covers an area in there.

Senator FOWLER. Just summarize the best you can, Mr. Miehe, in the interest of time, then we will get into our discussion.

Mr. MIEHE. Let me cut some things here. It would help us in an orderly fashion to move our properties out of the System where we were unwilling owners, as some others have stated—unwilling owners be able to move that into private hands.

We in St. Paul have moved a lot of properties into agricultural hands. Using different methods, this would be another tool to moving this out. We have had interest from Ducks, Unlimited, from some conservation groups, for some way that we could work some marginal land back out to them, and for the use of the public.

The Farm Credit System is not a willing owner of land; we do not want to own property, and as quickly as we can we want to move that out. We are not in the business of managing properties or holding them for a profit.

The Farm Credit System recognizes that it has a direct part to play in conserving and preserving our precious farmland resources. Each of the 12 Farm Credit districts has adopted a set of guidelines for the management of acquired properties under its care. In every case those guidelines specify that agricultural properties acquired by System institutions shall be properly cared for and maintained in top condition, and the management of those properties shall reflect favorably on the Farm Credit System as a good steward of land.

The concept of private ownership implies control over property and the privilege to manage it for its highest and best use. Selling acquired property with conservation easements, et cetera, would reduce the purchaser's ability to maximize his or her control in the use of this land. FCS has a policy of marketing properties without driving down land values. Any restriction on our ability to sell land without a conservation plan would delay returning land to private individuals, who are best able to manage farmland.

This goes back a little bit to some of the things that were discussed here earlier, to mandate it before it is purchased I think would slow down our movement of properties. And, just like in our own case, when you can acquire the land and then build toward a conservation plan and the good use of the land with you as the owner, I think that establishes responsibility and pride in the ownership.

Along in there there probably needs to be some more incentives some way applied. CRP is one of those.

[The prepared statement of Mr. Miehe follows:]

THE FARM CREDIT COUNCIL
50 F STREET, NW • SUITE 900 • WASHINGTON, DC 20001 • 202 393-3744

Testimony by

Charles Miehe, Chairman of the Board

Farm Credit Services of St. Paul

St. Paul, Minnesota

Before

U.S. Senate Committee on Agriculture, Nutrition and Forestry

August 4, 1987

The National Association Of Cooperative Farm Lenders - Affiliated With The National Council of Farmer Cooperatives

Mr. Chairman, my name is Charles Miehe. I am a dairy, beef and grain farmer from Belmont, Wisconsin. I am a member of the Production Credit Association and the Federal Land Bank Association of Southwest Wisconsin and chairman of the district board of Farm Credit Services of St. Paul. I am a member of the boards of directors of The Farm Credit Council and the Farm Credit Corporation of America. I am a recipient of the Lafayette County Soil and Conservation Award and the County Wildlife Habitat Award.

I am here today to present to you the Farm Credit System's views on some specific aspects of the USDA Conservation Reserve Program and on soil and water conservation as it relates to the sale or financing of agricultural properties.

The Farm Credit System's position on soil and water conservation is expressed in a Farm Credit Council resolution developed through grassroots input of its members. I would like to read that resolution to you.

> "As the largest provider of credit to agriculture, the member institutions of the Farm Credit Council have a substantial stake in encouraging good soil conservation practices. The Council recognizes and strongly supports the need to maintain the productivity of soil resources. The Council will seek changes in current law to allow highly erodible farm properties acquired by financial institutions to be placed in the conservation reserve. In addition to preserving soil and water resources, this change will reduce government price support costs and the oversupply of farm products. The Council will also oppose efforts that would require private lending institutions to impose loan approval restrictions on farmers and ranchers to meet soil and water conservation objectives."

Mr. Chairman, there are two major issues I would like to address today on behalf of the institutions and members of the Farm Credit System. The first concerns the ability of agricultural lenders to enroll highly erodible land in the USDA Conservation Reserve Program. The second has to do with the issue of our opposition to statutory conservation requirements relating to the sale and/or financing of farm real estate.

Regarding the Conservation Reserve Program, the Farm Credit System has asked Congress for legislation that would allow greater participation in this program by ALL lenders to agriculture.

Under current USDA regulations, eligible land can be enrolled in the CRP if the owner held title to the land on January 1, 1985 and annually tilled crops were grown on that land at least once during the period 1981-1985.

The result of these regulations is that land acquired by lenders which meets the provisions specified in Title XII of the 1985 Farm Bill, but not enrolled in the CRP when acquired, cannot be enrolled. However, Section 1235. (a) (1) of the 1985 Act authorizes the Secretary of Agriculture to allow enrollment of land where ownership has changed in the three-year period preceding the first year of the contract if -- and I quote -- "the Secretary determines that the land was acquired under

circumstances that give adequate assurance that such land was not acquired for the purpose of placing it in the program established by this schedule."

We believe this provision in the Act allows the Secretary the discretion to permit lenders to enroll eligible land.

In addition, USDA regulations limit lending institution participation in another way. Under current regulations, once an institution has signed up a sufficient quantity of property to hit the $50,000 payment limitation, it is prohibited from signing up any additional property in that calendar year even if all of the institution's enrolled property is sold and it would receive no payment whatsoever. Our concern, Mr. Chairman, is not that the we be able to receive more than $50,000 in payments, but that we be able to enroll all eligible acquired property in the program and sell that property with the contract attached.

We believe that a change in the current USDA regulations to allow all agricultural lenders to enroll eligible, highly erodible land in the CRP serves to further the objectives of Congress and would benefit both agricultural producers and their lenders. We have discussed these matters on numerous occasions with the Department of Agriculture to no avail.

Title VII of S.1219 introduced by request by Senators Leahy and Lugar, contains specific bill language which would permit lenders to more fully participate in the Conservation Reserve Program. I have attached a copy of this language to my testimony for your reference. This language would accomplish the following:

o permit lending institutions to enter acquired property into the reserve without limit to the acreage, while maintaining the $50,000 payment limitation;

o clarify that lending institutions can enter property into the reserve without regard to the three year holding requirement;

o require the Secretary of Agriculture to carry out the program in such a manner as to not give lenders an advantage over farmers in bidding land into the reserve; and, finally,

o clarify current law to directly permit the System to sell, separate from the land, an easement for conservation, recreation, wildlife, or similar purposes, to any unit of state or local government, private nonprofit organization, or other purchaser.

We see several important benefits in allowing lenders to enroll land in the CRP.

First, it would get more land in to the program. As much as we try to restructure loans, Mr. Chairman, not all restructurings can or will be successful. The property we take into inventory tends to be lower quality. It makes good sense to get that property enrolled in the program while we can. This will also further the objective of reducing surplus commodities.

Second, it provides agricultural producers with an incentive to acquire the marginal land because it would be purchased with an existing CRP contract. Farmers typically do not buy land they

cannot till.

And, third, it helps lenders by making the resale of marginal land easier to accomplish. The ability to efficiently market acquired properties is especially important to Farm Credit System institutions because, as cooperatives, the cost of carrying acquired property must ultimately be borne by the owner-borrowers.

There is an additional, and important, benefit inherent in the second and third points. Many lenders have acquired marginal land which was only brought into production because of the agricultural boom of the 1970s. This land should be taken out of production and returned to a natural state. The availability of a CRP contract on this type land would increase its marketability and foster its return to a natural state.

The amount of marginal land currently in lender inventories is substantial. In the Farm Credit System, estimates of acquired property eligible for CRP enrollment totals 373,200 acres. A chart showing estimates of CRP eligible acquired property by Farm Credit district is included in the material submitted to the Subcommittee.

Therefore, Mr. Chairman, we urge that Farm Credit institutions, commercial banks, insurance companies and other institutions who have become unwilling owners of eligible land through satisfaction of debt contracts be allowed to enroll such land in the CRP.

The second major issue, Mr. Chairman, has to do with the Farm Credit System's position on requiring private lending institutions to put restrictions on loan approvals or sales of property to meet conservation objectives.

The 1985 Farm Bill included the Sodbuster, Swampbuster and Conservation Compliance conservation measures. We believe there is no need for additional controls or restrictions beyond those provided in the 1985 Bill. Imposing further conservation restrictions would be very costly. Legal and operational actions to change deeds, notes and security agreements would be complex and expensive. In addition, further restrictions might limit the market and have adverse effects on land prices.

The Farm Credit System recognizes that it has a direct part to play in conserving and preserving our precious farmland resources. Each of the 12 Farm Credit districts has adopted a set of guidelines for the management of acquired property under its care. In every case those guidelines specify that agricultural properties acquired by System institutions shall be properly cared for and maintained in top condition and the management of those properties shall reflect favorably on the Farm Credit System as a good steward of the land.

The concept of private ownership implies control over property and the privilege to manage it for its highest and best use. Selling acquired property with conservation easements, etc., would reduce the purchasers ability to maximize his/her control of land. FCS has a policy of marketing properties without driving down land values. Any restriction on our ability to sell

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land without a conservation plan would delay returning land to private individuals, who are best able to manage farm land.

Secondly, marketing restrictions will tend to reduce the sales price. This hurts the net worth of the entire local community. FCS is a transitionary owner of land. The purchaser should be actively involved in structuring the conservation plan on property, not the lending institution. I know my property better than anyone else. I know for sure that I would not like my lending institution telling me what conservation practices I should follow on my land.

The Farm Credit System is making every effort to reduce costs and lower interest rates. Adding additional marketing restrictions on FCS will impede our efforts to accomplish these goals.

Finally, Mr. Chairman, for many of the same reasons I have just stated, we could not support mandating the System to impose loan approval restrictions on farmers and ranchers to meet soil and water conservation objectives. We believe this would accomplish one thing. It would mean that farmers and ranchers would go somewhere other than the Farm Credit System to obtain financing. As I stated earlier, I believe the 1985 Farm Bill made great strides forward in addressing the need for conserving our Nation's soil resources.

Mr. Chairman, the Farm Credit System recognizes and supports the vital conservation objectives of reducing soil loss to wind and water, reducing sedimentation and improving water quality, preserving the nation's wetlands and creating a better habitat for fish and wildlife.

Further, we applaud and support the conservation provisions of the 1985 Farm Bill. We think those provisions are adequate and that it would not be good for the business of farmers and ranchers, and therefore not good for the business of their credit suppliers, to impose additional restrictions on the sale of agricultural properties or the making of loans to finance those properties.

In summary, the Farm Credit System believes the conservation provisions of the 1985 Act are appropriate and will be effective in fostering conservation practices. We believe those provisions should be fully implemented before any dramatic changes are made or new requirements imposed. We further believe that allowing lenders to enroll marginal land in the CRP will serve to complement those conservation provisions and further the Congress' objectives in that regard.

Thank you Mr. Chairman.

Attachment A and Attachment B follow:

100TH CONGRESS
1ST SESSION

S. 1219

To assure farmers, ranchers and their cooperatives that the value of their stock in Farm Credit System institutions is protected, to restore System institutions to economic viability and competitiveness for the benefit of United States agriculture, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 15 (legislative day, MAY 13), 1987

Mr. LEAHY (for himself and Mr. LUGAR) (by request) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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TITLE VII—CONSERVATION

SEC. 701. Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) is amended by—

(1) adding, after section 1233, the following new section:

"SEC. 1233A. (a) In carrying out the conservation acreage reserve program under this subtitle, the Secretary may not reject an offer to place land under the program by a person (1) who regularly makes loans secured by agricultural

real estate, (2) who has acquired highly erodible cropland through foreclosure or other proceeding, including but not limited to voluntary conveyance, arising out of the borrower's failure to meet contractual obligations to the lender, and (3) who agrees to the conditions specified in subsection (b), for the reason that including such cropland under a program contract would, except for the limitation imposed by section 1234(f), cause the total amount of rental payments to such person under program contracts to exceed $50,000 in any fiscal year. If part or all of the land placed in the program pursuant to this section is subsequently acquired by new owners or operators, the limitation in section 1234(f) shall be applied to the original contracting party and the new owners or operators as if they were placing land in the program for the first time, and, notwithstanding any other provision of law, the Secretary shall make appropriate upward adjustments in the total amount of rental payments to be made to the original contracting party and the new owners or operators.

"(b) The provisions of subsection (a) shall apply to a person otherwise described therein who agrees to perform all of the duties imposed by section 1232 with respect to all of the owner's highly erodible land covered under program contracts, notwithstanding the fact that, in any fiscal year, the total amount of rental payments that such person may re-

ceive under program contracts is limited to $50,000 in any fiscal year.

"(c) In connection with participation in the program by persons described in subsection (a), the Secretary shall ensure, insofar as practicable, that such persons do not enjoy an advantage over other owners and operators of highly erodible cropland. The Secretary may, in achieving this objective, employ measures such as, but not limited to, (1) establishing separate bidding procedures limited to such persons, and (2) providing that offers of such persons will not be accepted if they would cause other owners and operators to be excluded from the program due to the restriction imposed by section 1231(d)."; and

(2) amending section 1235(a)(1)(C) by inserting before the period at the end thereof the following: ", such as acquisitions of the land by a person described in section 1233A".

SEC. 702. Section 4.35 of the Farm Credit Act of 1971 (12 U.S.C. 2219) is amended by adding at the end thereof the following: "Nothing in this section shall be construed to limit the authority of any System institution, with respect to any real property acquired by it through foreclosure or other proceeding, including but not limited to voluntary conveyance, to sell, separate from the underlying fee, an easement for conservation, recreation, wildlife, or similar purposes, to any unit of state or local government, private nonprofit organization, or other purchaser.".

○

Attachment B

The following table represents acres of acquired property, by Farm Credit district, that were acquired with a Conservation Reserve Program (CRP) contract and an estimate of eligible property acquired without CRP contracts. The information is as of March 31, 1987.

FARM CREDIT DISTRICTS	ACRES ACQUIRED WITH CONTRACTS	ESTIMATE OF ELIGIBLE PROPERTY
Springfield	None	None
Baltimore	None	200
Columbia	None	22,000
Louisville	None	10,000
Jackson	1,200	10,000
St. Louis	None	20,000
St. Paul	755	125,000
Omaha	9,500	64,000
Wichita	6,000	25,000
Texas	None	38,000
Sacramento	None	5,000
Spokane	525	54,000
Total	17,980	373,200

Senator FOWLER. Let me ask you this specifically.

The Farmers Home Administration has a soft wood timber farm retention program so that if you owe $1,000 an acre or less, you can put your farm in pine trees, and Farmers Home will not foreclose.

What do you think about that? Would the Farm Credit System be willing to establish such a program?

Mr. MIEHE. Except that we do not want to be a holder of land. We want to have the land out in private ownership and then we would be the chosen financier.

Does that answer your question?

Senator FOWLER. Well, not exactly. For instance, I read your prepared testimony last night and made some notes here. You stated in your written testimony that of your inventory property, I think I wrote down 373,200 acres would qualify for the Conservation Reserve Program.

And we've got a proposal before the subcommittee now to expand the CRP by loosening the marginal land restrictions. This idea is very popular in my part of the country where tree plantings have been on the increase since 1985.

How would farmers in your area feel about this kind of change in the restrictions, the kind of proposals that we have before the committee?

Mr. MIEHE. I think they would look upon that positively. There's a lot of upper Wisconsin-Minnesota land that will be planted in trees now through this program. Maybe, Ron, you could speak to that.

Mr. BUSHLACK. I think it's addressed in your testimony, Charlie, that we do have a lot of land that was probably brought into production during the boom years of the seventies which maybe never was intended for agriculture production if you look at it in terms of its highest and best use, and with the return to normal times, if that's what we're in today in agriculture, that land should be taken out of production.

Senator FOWLER. Why would you oppose, again based on your testimony, why would you oppose making the CRP participation mandatory for the marginal lands that are already in your inventory?

Mr. BUSHLACK. Mr. Chairman, were you suggesting CRP participation too, or were you suggesting conservation practices? He mentioned that——

Senator FOWLER. No. I'm talking about the program that we already have established, the Conservation Reserve Program.

Mr. MIEHE. We are in favor of that and in favor of anybody being able to get into it. As I said, we did not—it would sound self-serving if we would try to get our properties into it and then collect the revenue.

We want to be able to sign up the properties and move it in as quickly as possible to the private ownership. As I understand the program, if we sell it, there are some hangups in that owner coming back and being able to get in the program. Am I right in that?

Mr. BUSHLACK. Well, right now——

Senator FOWLER. I'm just trying to follow again in the—and I know we're—just forgive us, because we read the testimony. That's the problem with this because you don't have a chance to get it all out to read it all.

The way I understand, in your prepared testimony you supported the concept of the Farm Credit System being allowed to place the inventory properties in the Conservation Reserve Program, of course.

But, in your testimony, you oppose the idea of placing easement restrictions on the land that is to be resold. And I'm just—you know, one of the things we're going to have to consider is making the CRP Program participation mandatory for the marginal lands in a way to solve this problem for lands already in your inventory.

Mr. MIEHE. Yes, I understand. If there was a conservation plan mandated on that farm as we held it for market, I think it would slow the sale of it.

It's sad that it is that way, but I think in reality that would be a fact.

Senator BOND. Near the end of your testimony, you explain why you felt that would not be in the best interest of all of the farmers in the community who really are, I guess, the owners of the System.

Would you explain why you feel that slowing down that sale would have a negative impact throughout the community?

Mr. MIEHE. If that would tend, because of that restriction on it, that it has to be a conservation practice, and in my heart I believe that all should be, period.

But the fact that had to be on there would reduce the interest of some buyers and probably lower its potential price which, right now, is a big factor in the recovery of the Farm Credit System, that the price can be based, maintained and raised.

Senator BOND. And it would thus tend to drive up the rates that you would have to charge to future family farm borrowers, is that it?

Mr. MIEHE. All the way through now.

Mr. BUSHLACK. Our problem is the mandatory conservation plan per se on each acquired property that we have versus the ability to enroll acquired property in the CRP Program.

Senator BOND. Well, is it fair to say that you favor the voluntary, the ability to enroll the land voluntarily in the CRP so you, I assume, would take a piece of land and bid it at a certain level for the CRP if they accepted that bid than you would sell it to a purchaser who could then qualify for the payments?

Mr. MIEHE. Yes.

Senator BOND. But I suppose if you were mandated to put it in the CRP, you offered the land up for CRP participation, and the word would be, well, we'll give you $1 a year rental for your acres, I assume that is a concern.

Mr. MIEHE. Any restrictions that you add, it's sad to say, does probably cut the market down for that piece.

Senator FOWLER. Are you selling any inventory property now?

Mr. MIEHE. We're selling it.

Senator FOWLER. Who is buying it?

Mr. MIEHE. We are selling a lot of property in the St. Paul District, in the districts as it's moving out or moving a lot of property. Most of it is—over 90 percent is being purchased by neighboring farmers.

Ron has the figures.

Senator FOWLER. Ninety percent by neighboring farmers. What does neighboring mean, adjoining, within a 50-mile radius?

Mr. BUSHLACK. Or in the local community, adding it to—it's in addition to their existing farm operations. So it would be close enough so that they can carry on a single farm operation.

Senator FOWLER. Any comments before we ask Mr. Lord a few questions on the previous testimony? The thing the farmers said before that you found outlined with your experience and Farm Credit System practices?

Mr. MIEHE. We as our district, and as all 11 districts, and I know all of the 86 board members personally, have a very strong response to the conservation in different parts of the Nation under different methods from an irrigation of Mr. Wertz' farm down in Arizona to conservation strips in our area and other parts of the Upper Midwest and the Northeast.

Senator FOWLER. Well, Mr. Kroese and Mr. Railsback were arguing the case that they didn't think that you and Farmers Home had enough manpower physically to oversee these inventories properly, but they were arguing the case that we ought to give you a lot more money to hire manpower.

Mr. MIEHE. To move the properties?

Senator FOWLER. Or both to move the properties and to make sure that the inventory properties were not being misused.

Mr. MIEHE. And we have our policy and——

Senator FOWLER. Well, I know about the policy, but tell me about the experience.

Do you agree with that? Do you feel you can adequately oversee your inventory properly?

Mr. MIEHE. Speaking for our district, Mr. Chairman, I think we can.

Senator FOWLER. You've done a very good job, very aggressive job from the figures in restructuring loans, which we certainly haven't had in my part of the country. I'm not sure why.

Mr. MIEHE. And we've been able to keep a pretty good control over the land, the use of the land, and the leasing of it.

This is a program that we had to gear up very quickly for as we hit into the 1984 plus the 1983-84 aftermath of the properties coming in. But I think we've done a very commendable job in moving that. And there will be instances where it was completely violated. I'm sorry but, in some instances, that will happen. But we have done everything possible to control that, and to take good care of the land because we are looked at as to how we handle these properties.

Senator BOND. I would appreciate it if you would perhaps submit for the record the sales in the St. Paul District and the information on the purchasers. You suggested a very large percentage were to neighboring farmers. I think it would be informative for us to have that.

[The material can be found on page 71.]

Senator BOND. I might ask one final question. Do you have an idea of the average amount of inventory land that has a supervisor responsible for ensuring that the tenants farm it properly? Secondly, do you know how much land that supervisor would have to oversee on the average?

Mr. MIEHE. I'll touch on that structure and maybe Ron can answer the specifics.

In our 23 service centers in St. Paul, each service center has a manager of acquired property and a special staff under him to handle that. And they are accountable and responsible for that.

Mr. BUSHLACK. Well, right now we've probably got 600,000 acres in inventory that is being managed for marketing and lease. And I would venture to say that we've had all of our land under lease during this past year.

In fact, we just did an inventory. And I think that speaks to the fact that we are managing the property. Included in our leases are conservation practices that conservators of land are addressed in our leasing of the program.

Senator BOND. Well, we heard testimony that those were just words in the contract.

Do you have adequate personnel to see that those conservation practices are carried out?

Mr. BUSHLACK. We have both marketing and managing people in each service center. The staff would vary depending on the use of the outside realtor for marketing purposes.

Mr. MIEHE. The other figures we will get to you.

Senator BOND. Thank you.

[The material was subsequently received for the record.]

Farm Credit Services

375 Jackson Street
P.O. Box 64949
St. Paul, Minnesota 55164-0949
612/221-0600

February 16, 1988

The Honorable Christopher Bond
c/o Senate Committee on Agriculture,
Nutrition and Forestry
328-A Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Bond:

During a hearing before the Committee early last summer, testimony was provided by our then-Chairman of the Board, E. Charles Miehe.

During his testimony you requested that Farm Credit Services of St. Paul provide additional data regarding our sales of acquired property and to whom the land was sold.

We regret that such information was not promptly returned but are happy to provide here information regarding our acquired property sales in 1987 with our best estimates of to whom the property was sold.

We accepted offers on 820,000 acres, representing over $415 million in market value, in 1987. We estimate that over 90% of all our sales were made to operating farmers. 75% of the land was sold to neighbors residing within a five (5) mile radius of the property sold.

We trust this will confirm the thrust of Mr. Miehe's testimony and regret that we cannot be more specific in information about the purchasers.

Sincerely,

Judith M. Goff

Judith M. Goff
Legislative Affairs Officer

cc: Christine Sarcone

Senator FOWLER. In my part of the country, there have been very few restructures by the Farm Credit System. We've had hearings, we've talked to them about it. But the result is the facts are that I think there was a dozen, 12 last year, only 12 restructures.

So, as a result, the inventory property has gone to the highest bidder period. And I understand how any kind of easements or conservation restrictions might impede the sale if you're just going to the highest bidder period.

It seems to me the question we're going to have to reach somewhere along the line is if we want the family farmer back on the land and their neighbors don't want just to double and triple the barn storehouses of those who are fortunate, there's got to be a way—what we all seem to want is to get the man back on the land that knows the land best. And that is the guy that's been looking after it. If we could find a way to settle his debt, lease it to him, somehow get him back on the land.

Any suggestions based on your experience as to—or are you being successful in doing that in Minnesota or is it, as I think you testified, mainly it's going to somebody else?

Mr. MIEHE. Yes, we are being very successful with that, in keeping the former owners on the land. In our restructuring work, it's right around 5,000 or so restructuring. But we have maybe helped that farmer scale down his operation, maybe we've taken a deed back on a proportion of maybe some land he bought at the wrong time. Without that weight around him, he's got an opportunity then to go back and make his other unit work.

As we've talked of moving this land to other farmers in the neighborhood, in my particular home situation, just like my daughter and son-in-law got on a farm, it will be now another family unit farm that was rented before. It was not an inventory of the Farm Credit System, it was an older couple.

Another farm next to me, a young man bought it who is farming with his dad. So most of these are not per se an expansion of the farm, but another member of that family perhaps being established on that farm.

Just as a lot of the people have got in trouble in the early eighties with expanding members, but history would say it was the wrong time to expand. And now they are able to branch out and hopefully be successful. And I am very sure that they would be successful in their operations.

To go back in our restructuring again, we are very conscious to keep the good producers on the land. We've made a very strong effort in that part.

Senator FOWLER. Mr. Lord, on your inventory property, do you expect to make a return on it?

Mr. LORD. Yes, sir. We're working hard to generate any positive return right now. Quite frankly, if we look at the inventory lands overall, the current rate of return is very, very low. We could get that partially to it——

Senator FOWLER. What decision does that encourage? In fact, you therefore try to sell this as quickly as possible?

Mr. LORD. I think it encourages two different aspects. One is try to improve the returns while holding these properties, and we do that through restoring the productive capacity of these farms.

Senator FOWLER. How do you do that?

Mr. LORD. In many cases, it's through fertilization, through clearing up weeds, through making improvement to facilities that will allow us to run the farm on a more productive basis.

And then, the second component of return is, of course, the value of the land. And we feel we've seen the bottom overall in the farmland market and that we will be returning these properties back into the market in the next few years.

Senator FOWLER. Since, in your testimony, you testified you've probably got more acreage, possibly even than we've counted, in the months since the depression I think you said, for obvious reasons, certainly none that anybody could anticipate, but, because of that, is the industry, is the John Hancock Company, if you just want to speak of your own company, but the industry, is it equipped, are you equipped to handle all this in any way, shape or form, to manage all this acreage that you now have?

Mr. LORD. I believe we are now. When the whole recession started, we were more equipped to be making loans than to be taking back farms. And it was kind of like looking up the mountain and here came the avalanche, and we had a snow shovel. But, at this point, as I said, a number of the companies have acquired farm management organizations. My company has built one internally through hiring people. Others are contracting out. And I think the situation really is in hand now overall.

Senator FOWLER. Well, is this part of your operation, the agricultural land holdings, is that in the same department with your other real estate holdings, or is it separate?

Mr. LORD. It's a separate department.

Senator FOWLER. And that's your bailiwick?

Mr. LORD. Yes, sir.

Senator FOWLER. What is the proportion of the Hancock Company's real estate holdings, that is, these agricultural small farms and lands out of your total real estate holdings?

Mr. LORD. I can give you out of our total assets it would be somewhere in the vicinity of 2 percent.

Senator FOWLER. Two percent?

Mr. LORD. Yes, sir.

Senator BOND. Mr. Lord, do you have any data on the type of farmers who rent from you and size of operation? Are they large farm organizations, family farmers, and do you see any difference in the kind of conservation practices that are pursued by these different types of tenants?

Mr. LORD. As I indicated in my testimony, certainly the vast number, majority of the properties we own are operated through leases to local farm operators. And the size, I couldn't respond to the size of those operations. But the farm sizes are normally typical for the geographic area of the country in which they are located. And they tend to be smaller in the Midwest and large in the Far West, for example.

So the operators are, in many cases, as has been pointed out before, existing farmers who are expanding operations, other parts of the families getting involved who are in some cases, new farmers starting out, who are renting land to get in the business.

Senator BOND. Are there any economic reasons that you know of why the leasing program would favor a large corporate type farm? Is there any reason why they would better be able to lease this land, to be willing to pay a higher price?

Mr. LORD. No.

Senator BOND. There were also some suggestions early this morning that any effort to encourage conservation were really some vague words in a lease.

Do you have provisions in your leases about conservation practices?

Mr. LORD. Yes, we have. We have general provisions that provide for good husbandry and conservation by the tenant on the property. And then with those properties where there are specific conservation requirements, those are spelled out individually in the lease, certain requirements, operating requirements that have to be complied with.

Senator BOND. How do you enforce those good husbandry programs under the specific provisions? What mechanisms do you have to see that they are implemented?

Mr. LORD. Well, it's primarily through the leasing process. The majority of leases are made on a relatively short-term basis, 1 or 2 years, or 3 years in some cases. And if an operator is not in compliance with the conservation requirements of the lease, or the good husbandry provisions, the property would not be leased back a subsequent year. Or if it were a multi-year lease, the lease would be terminated.

Senator BOND. Do you have any provisions practically and as a matter of your contracts who say if there is a 2-inch rain and the tenant doesn't clear out the ditches and see that appropriate steps are taken, that you either would or could take some action?

Mr. LORD. Well, to the degree that specific measures are spelled out in a lease, and we had found that they had not been complied with, then we would follow up on that to request compliance and enforce compliance.

Senator BOND. Have you taken any steps beyond requesting compliance? Are there any occasions where you had to follow up and threaten to terminate a lease for failure to comply with good conservation practices?

Mr. LORD. I can't speak generally. I know of one case where that happened.

Senator BOND. Do you see it in the interest of your company to have good conservation practice on this land?

Mr. LORD. Absolutely. As I indicated, we feel that a more productive farm is a more valuable farm, and then conservation is an integral part of maintaining a productive farm unit.

Senator BOND. What would be the impact were Congress to mandate specific conservation practices with the sale of any properties held in inventory?

Mr. LORD. In other words, requiring specific measures that the sale would be contingent on compliance with certain measures. I think I would have to agree that would probably slow the movement of properties from institutional to individual hands just as any encumbrance on the title tends to diminish its value and cause a more careful analysis by a purchaser.

Senator BOND. And would the ultimate effect be on future lending policies? Would there be some impact on that?

Mr. LORD. I have not even thought about that. I can't respond.

Senator BOND. If the land in your inventory were less valuable on resale, would it not thereby require you, in considering future loans, to take account of the depreciated value?

Mr. LORD. It certainly would. In that same connection, we have observed the many regulations and constraints that have been imposed by the various States as to institutional land ownership and so forth, and they are causing us to reevaluate where we want to do business in the future. Because some of them just wouldn't allow us to stay in business in those areas.

Senator FOWLER. Assuming that the testimony of the first witnesses from the Land Stewardship Project in Minnesota were not exaggerations on these farms, and that you had lessees coming in that were bulldozing soil conservation measures that had built up over the years, and cutting down trees in hilly country, and dumping in the ponds, just assuming for the sake of discussion for a moment, whose responsibility is that to keep that from happening on inventory properties held by an insurance company?

Mr. LORD. I think it's the landowner's responsibility to properly treat the land held in inventory.

Senator FOWLER. Meaning the company?

Mr. LORD. Correct.

Senator FOWLER. Well, short of kind of not who is making a suggestion but as a question by Senator Bond, short of mandating conservation, strong conservation requirements in the lease, how do we and you ensure that this does not continue, that kind of activity does not continue to increase?

Mr. LORD. Well, Mr. Chairman, I believe from my own personal experience and what I've seen, that we are not facing a situation of major proportions here, and a situation which from certain examples might give an impression that we have a severe problem in the country, I believe that the institutional lenders who now own farmland have a very responsible attitude about that land, and that it's in their own self-interest to care for their land. And that they're doing that. And nothing is a 100 percent.

That is not to say there have not been instances where mistakes were made, but I would venture to say that our record would compare favorably with individual landowners' record on conservation. And from trips that I've taken through the country and looked at farms that we've owned and then looked at farms that were individually owned, I don 't think that there is any difference. And if there is, I think the difference is in our favor.

We have the resources to put into these farms to maintain them. And it's in our own interest to do that. And, unfortunately, in a time of stress, there may be individual operators who have to take a very hard look at where they invest their scarce resources, and sometimes things can slip on the farm.

Senator FOWLER. Gentlemen, thank you so much. You have all been very helpful.

Yes, Mr. Miehe.

Mr. MIEHE. Could I maybe address one thing?

Senator FOWLER. Yes, please.

Mr. MIEHE. As our declared properties, just going back to the St. Paul District.

We have our 23 service centers directed by local farmers. They have a pretty good eye on the countryside to watch that these properties are not rented to abusers.

And I think conservation, I am so pleased to see the way it's moving through and more attention is given to it in Congress. And it is making a dramatic effect. I can see it in the countryside.

One thing we discussed as a district board back in the early eighties, before we got into the financial crisis that we have today, we discussed if there is some way we can give an interest rate incentive to the land bank borrower that is using his land under a conservation plan. And it was a tougher thing then to do than what it possibly will be as we get out into the future years and get our business stabilized again.

But I think we will be able to put some incentives into the System in dealing with farmers to do that, and also on a local tax basis in our particular area.

In my estimation, any land that is not under conservation practice should be taxed as number one agricultural land, whether it is or it isn't. And as soon as you put land under conservation practice, it should lower your tax rates.

So there are a couple of incentive programs that, in the long run, we can probably accomplish the goal quicker than we can under some other mandatory measures.

Senator FOWLER. Well, you have been very helpful. Thank you.

Mr. Vance Clark, Administrator of the Farmers Home Administration, and Mr. Frank Dunkle, Director of the Fish and Wildlife Service of the Department of the Interior.

Welcome. Good morning.

Mr. Clark, Mr. Dunkle, let me treat you like friends and veteran testifiers here. We've got a real time problem. We've got one more panel that is going to give us a lot of suggestions, and we do have to pretty much end it by noon. So, knowing of your experience, I wish you would try to react to what you have heard this morning and make any suggestions from your testimony. And, of course, we will give it the full import that it deserves in the record.

Who wants to start?

STATEMENT OF HON. VANCE L. CLARK, ADMINISTRATOR, FARMERS HOME ADMINISTRATION, U.S. DEPARTMENT OF AGRICULTURE

Mr. CLARK. Well, obviously, Mr. Chairman, you and Senator Bond have done your homework on my prepared testimony so I won't go into a lot of that, other than to remind you that I am delighted to join my associate this morning to discuss inventory land problems.

Briefly again, our Agency does have a considerable amount of inventory in that status. We have about 5,200 farm properties on our rolls, totaling about 1.6 million acres. We think it's worth about $780 million out there based upon the evaluations by our FmHA State Directors, who do and are charged with the responsibility of husbanding that land.

Most of that land came to us through sources other than our foreclosure actions. Only about 12 percent came onto our rolls from our actual foreclosure actions.

Our biggest problem States are Missouri, Senator Bond, your State, with some 750 properties totaling about 177,000 acres, worth about $88 million.

Iowa has a considerable number, 375 properties, totaling 79,000 acres, worth about $49 million. Kansas is our next heaviest State with 350 properties, totaling about 89,000 acres at about $44 million evaluation.

We have 20-some States with little or no property on the rolls. Considering their location, that doesn't come as a big surprise.

Again most of that property came onto our rolls because of falling farmland property values out there. We were not able to dispose of that property in a timely fashion, because the Food Security Act of 1985 does tell us we can't if it's going to affect values around it.

So we've been very carefully husbanding that land, trying to dispose of it as the 1985 act tells us to do.

And I'll be happy to interact with you on any questions you might have on how we're doing that.

[The prepared statement of Mr. Clark follows:]

PREPARED STATEMENT OF VANCE L. CLARK, ADMINISTRATOR, FARMERS HOME ADMINISTRATION, U.S. DEPARTMENT OF AGRICULTURE

Good morning, Mr. Chairman and Members of the Committee. I appreciate the opportunity to be with you today to discuss the farm inventory situation at the Farmers Home Administration.

As of June 30, the Agency held an inventory of about 5,200 farm properties totaling 1.6 million acres. The current market value of this land, as estimated by our FmHA State Directors responsible for its management, is $780 million. Most of this property was acquired through voluntary conveyance on the part of borrowers; the rest through foreclosure by FmHA and other lenders. It is important to note, however, that FmHA's foreclosures accounted for less than 12 percent of the total properties acquired.

The States with the largest farm property inventories are:

Missouri, with 750 properties totaling 177,000 acres valued at $88 million.

Iowa, with 375 properties totaling 79,000 acres valued at $49 million.

Kansas, with 350 properties totaling 89,000 acres valued at $44 million.

States with no farm properties in inventory or fewer than 20 properties were Alaska, Arizona, Connecticut, Delaware, Hawaii, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, Ohio, Rhode Island, Utah, and Vermont.

Most of our inventory property was accumulated during the last several years when very little property was disposed of because of falling farmland values, and we did not want to sell property if it would further depress neighboring land values. Indeed, that is the mandate of the 1985 Food Security Act.

This completes my statement. Thank you, Mr. Chairman.

Senator FOWLER. Thank you, Mr. Clark, very much.

Mr. Dunkle.

STATEMENT OF FRANK H. DUNKLE, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

Mr. DUNKLE. Mr. Chairman, I would address the problem in the same way. In the interest of time, I would like to make just a few comments. You have my prepared statement. And I would be very happy to answer any questions that you might have.

First of all, I am glad to be here, and I think you would like to know that Mr. Clark and I have a very excellent working relation-

ship in trying to come to grips with some of the problems that the farm community faces, and with some of the conservation opportunities that are presented in the area of wetlands and wetlands restoration.

There are only about 5 to 7 percent of the properties that Farmers Home has that we see having some major values for wetland waterfowl production.

Many of the properties that seem to be coming back to the Farmers Home are some of the high risk agricultural areas, which many times do lend themselves to the production of wildlife. We look at those as opportunities for general wildlife conservation activities.

We have lost too much wetland in the United States at this point. Our waterfowl populations are at an all time low, and so the opportunity to embark on a restoration program of wetlands is something that we view as a real opportunity to enhance the wetlands across the United States and, of course, to enhance the waterfowl populations that are a major resource in the United States.

In the case of the Farmers Home Administration, the authority that was laid out by the executive order for the protection of wetlands is an opportunity we have jointly taken advantage of through a memorandum of understanding that is beginning to work. We have been working with both of our agencies under that memorandum to identify properties that would lend themselves to wetland restoration and management. We then take it the next step to determine how we can bring management to those properties that is consistent with the needs of the Farmers Home to get those lands out of their inventory and to find a way for the service, private, State, or other entities to restore some of those wetlands.

This is only an area that we're working in with Farmers Home. As you've heard this morning from other people, there are some other areas of land in the Federal Farm Credit System, where given the proper opportunities, legislatively, we could perhaps bring about other restoration opportunities on other lands.

With that, Mr. Chairman, I would conclude. I am pleased to have had the opportunity to be with you, and will be very happy to address any questions you might present.

[The prepared statement of Mr. Dunkle follows:]

PREPARED STATEMENT OF FRANK H. DUNKLE, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, my name is Frank Dunkle and I am the Director of the U.S. Fish and Wildlife Service (Service). I am pleased to be here today to discuss the manner in which farmlands held by private as well as governmental lending institutions could have an important bearing on fish and wildlife resources of concern to the Service. Let me explain why I believe this to be the case.

If we were having this discussion ten years ago, I would be describing to you the important wetland and waterfowl values of many of these lands. In many instances, farm credit properties, prior to being converted to agricultural purposes, possessed important wetland and waterfowl values. In some cases those values, though diminished, persist today. I am aware of specific situations where Farmers Home Administration inventory properties, for example, have important wetland and waterfowl values and with relatively minor restoration efforts, could once again provide exceptional values.

The opportunity to discuss the eventual disposition of credit system lands, particularly the inherent wetland conservation opportunities, comes at a crucial time. The future of the North American waterfowl resource is directly tied to stemming the alarming rate of wetland destruction. Wetland losses from the mid-1950's to the

mid-1970's are documented to have been approximately 458,000 acres per year. In excess of 85 percent of these losses were attributable to agricultural expansion. Many credit system properties and associated problems are directly related to attempted agricultural expansion into high risk wetland areas that are marginal, at best, in terms of agricultural production potential.

We can talk about the need to protect the nations wetlands from further destruction, but further losses are inevitable. The Swampbuster provision of the 1985 Farm Bill will help, and worldwide production surpluses and low commodity prices will tend to dampen further expansion of agricultural development into wetland areas. Notwithstanding these factors, however, losses from a host of other activities will continue to erode an already diminished wetland base.

My concern and the concern of many conservationists is that we have already lost too much—more than one-half of the nation's wetlands. Waterfowl populations have recently been at an all-time low. Even a successful wetland protection program, reducing wetland losses to the absolutely minimal level consistent with legitimate and unavoidable development needs of society, may not be enough. We must now add to our conservation ethic not only a concern for the conservation of wetlands, but also a concern for the restoration of wetlands.

Credit system properties, such as the Farmers Home Administration inventory, may represent a potential repository of many such restorable wetland basins. The challenge is to find the mechanism, whereby the necessary land rights could be made available for such efforts. In the case of Farmers Home Administration inventory property, that mechanism has been found.

The Farmers Home Administration, in response to Executive Order 11990—Protection of Wetlands, has identified the need to protect and enhance wetlands as an integral part of the inventory property disposal process. Through a recently signed Memorandum of Understanding between the Farmers Home Administration and the Service, a copy of which is attached to my statement, the Service is now given the chance to screen inventory properties for the purpose of identifying important wetland protection opportunities. The Service is also permitted to implement or sponsor the implementation by a third party, such as Ducks Unlimited, of mutually acceptable plans for wetland restoration and enhancement.

Farmers Home Administration personnel will determine when and to what extent it is practicable to place wetland protective deed restrictions on the property. They will establish a balance between the impact upon resale potential and the potential for wetland protection identified by the Service. Service personnel are providing wetland conservation expertise to the Farmers Home Administration with the clear understanding that Service recommendations are to be consistent with the overriding property disposal interest of the Farmers Home Administration.

The Service has been given a new and challenging opportunity to assist the Farmers Home Administration in an area of mutual benefit. Under no circumstances is the Service to become a hindrance to the Farmers Home Administration's exercise of its responsibilities. Once a deed restriction is determined practical, the Service may request assignment of the responsibility to implement such improvements and to perform subsequent management activities, and a State fish and wildlife agency may do so as well.

Through this cooperative approach to wetland protection and restoration, significant benefits are possible. Obviously, wetlands will be enhanced and waterfowl will benefit. In addition, surplus crop production and disaster payments may be reduced along with the need for flood control improvements on high-risk lands not suited to continued agricultural production.

Though the anticipated acreage of wetlands suited to deed restriction is not large in comparison to other, more traditional agricultural programs, it will be significant in terms of wetland and waterfowl benefits. We estimate that approximately 5 to 7 percent of the existing Farmers Home Administration inventory could be proposed for wetland deed restriction. Of equal importance is the fact that the effort could likewise serve as the stimulus for other such wetland restoration pursuits where necessary property rights can be reserved.

Mr. Chairman, in closing, I would like to reiterate my appreciation for the opportunity to be here. Although wetland- and waterfowl-related concerns may not be foremost on the agenda of this committee, agricultural lending policies and wetland and waterfowl conservation issues are intertwined, and I do believe that our mutual interests are well served by this exchange of views today.

[The Memorandum of Understanding between the Farmers Home Administration and the Service follows:]

MEMORANDUM OF UNDERSTANDING

BETWEEN

FARMERS HOME ADMINISTRATION AND THE U.S. FISH AND WILDLIFE SERVICE

ESTABLISHING PROCEDURES FOR INTERAGENCY COORDINATION ON

FISH AND WILDLIFE RESOURCE ISSUES AFFECTING FARMER PROGRAMS

Purpose and Policy

In complying with Federal environmental protection laws, regulations, and Executive Orders and assessing the potential environmental impacts of its actions, including the making of loans and disposal of lands or interests in such lands, the Farmers Home Administration (FmHA) consults with appropriate Federal, State, or local agencies on the technical aspects of environmental planning, including impact analysis and mitigation alternatives. This Memorandum of Understanding (MOU) sets forth the consultation procedures to be followed by FmHA and the U.S. Fish and Wildlife Service (Service). Of particular relevance to this MOU is FmHA's need to consult with the Service in implementing FmHA's affirmative responsibilities to protect and enhance wetland resources under the requirements of Executive Order 11990, Protection of Wetlands, and as further specified in 7 CFR Part 1940, Subpart G. This MOU does not supersede consultation as required under Section 7 of the Endangered Species Act; however, every effort will be made to use this MOU to facilitate early coordination on endangered species concerns.

The Service has the expertise and capability to act as technical consultant to FmHA on matters dealing with fish and wildlife resources and other environmental analyses, including recommendations for protection and restoration/enhancement of wetlands, floodplain habitats, and coastal barrier resources and for endangered, threatened, and/or candidate species and other fish and wildlife resources for which the Federal Government has national or international management responsibilities. The Service has the expertise to act as advocates for the fish and wildlife resource interest(s) of State or local agencies or private non-profit organizations. In carrying out these responsibilities, the Service will act as liaison between FmHA and State fish and wildlife agencies and non-profit organizations having fish and wildlife conservation as a focus, to ensure that State and private concerns are fully considered.

In addition, the Food Security Act of 1985 (Act) provides important new opportunities for strengthening the farm economy and contributing to fish and wildlife resource conservation and wetlands protection and restoration. Section 1318 of the Act stipulates a role of the Service to assist FmHA in:

(1) selecting real property in which the Secretary (Agriculture) may acquire easements for conservation, recreation, and wildlife purposes;

(2) formulating the terms and conditions of such easements; and

(3) enforcing such easements.

Section 1314 of the Act provides an opportunity for easements, restrictions, development rights, or the equivalent of these items to be granted or sold, for conservation purposes, to units of State or local governments or private non-profit organizations separately from the farm properties in FmHA's inventory.

Therefore, FmHA and the Service agree to coordinate efforts to meet national environmental and farm program objectives through cooperative implementation of the Act, Executive Order 11990, and FmHA's existing environmental planning procedures.

Procedures

I. Loan application processing: In completing environmental analyses associated with farm ownership and other FmHA Farmer Program loans (insured and guaranteed), FmHA will invite assistance from the Service in accordance with 7 CFR Part 1940, Subpart G. To reduce the possibility that Important Resources (Attachment I) may be inadvertently impacted as a result of FmHA loans, the following process will be employed as a part of loan processing actions:

A. the Service will provide FmHA County Offices with periodic updates of appropriate information on Important Resources for inclusion in FmHA's Natural Resource Management Guides;

B. the FmHA County Supervisors will review information provided by the Service in processing Farmer Program loan applications;

C. the FmHA County Supervisor will coordinate with the appropriate field office of the Service if:

(1) there is potential for the Important Resources to be affected through a proposed change in the farm's land use; or

(2) the County Supervisor is unsure regarding the possible presence of threatened, endangered, or candidate species or their habitat;

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D. in areas identified by the Service as a high priority for threatened/endangered species and/or migratory birds, especially waterfowl, FmHA County Supervisors will allow the Service the opportunity to provide comments, and will fully consider such comments in developing environmental mitigation measures for individual Farmer Program applications. The Service will identify such areas and will provide such to FmHA as appropriate.

II. Section 1318: It is the intent of both FmHA and the Service to amend this MOU to incorporate consultation procedures for Section 1318 when regulations are finalized and that program becomes effective.

III. Inventory land disposal process, including Section 1314 requests: In completing environmental analyses preparatory to leasing or disposal of inventory properties, including interests in such properties, FmHA will request the Service's assistance. The Service will be afforded the opportunity to provide input and recommendations regarding Important Resources. The Service input, including State agency and private non-profit concerns, will be sought and provided as early as possible in FmHA's suitable/surplus determination process. Whenever Important Resources are identified by the Service, the Service will assist FmHA in the development of lease or deed restrictions consistent with protecting or restoring such resources and the requirements of 7 CFR Part 1940, Subpart G. FmHA will give full consideration to Service recommendations in completion of environmental analyses prior to disposal actions.

Once FmHA has acquired lands through voluntary conveyance or other means, the following process will be employed as part of disposal actions:

A. the FmHA County Supervisors will notify the appropriate field office(s) of the Service of lands currently in inventory and of additional parcels as they are acquired. Notification should include locations, a legal description of the property if available, approximate acreage, and other descriptive information as appropriate (e.g., maps);

B. the Service will in-turn provide the County Supervisor with assistance in identifying the presence of Important Resources listed in Attachment 1, and if present, with recommended fish and wildlife conservation measures for inclusion in the environmental analysis, suitable/surplus determination process, and subsequent disposal actions;

C. the Service's contribution to FmHA's environmental analysis process will address the following, as appropriate:

(1) existing and potential occurrence and condition of Important Resources on the tract(s);

(2) emergency fish and wildlife conservation measures needed to protect or conserve environmental value(s) of the tract(s);

(3) additional, long-term fish and wildlife conservation measures needed to meet FmHA mandates to conserve, protect, and enhance Important Resources and land uses such as:

(a) the need for wetland protection and enhancement actions in response to Executive Order 11990. In this regard the Service will assist FmHA by identifying important wetland protection opportunities and by formulating and implementing or sponsoring the implementation by a third party (e.g., Ducks Unlimited) of mutually acceptable plans for wetland restoration/enhancement;

(b) recommended lease or deed restrictions needed to protect Important Resources and land uses (e.g., prior to sale the deed would be restricted to protect wetlands or floodplain habitats from conversion to other land uses); or

(c) easements, restrictions, or the equivalent to be considered for grant or sale to units of local or State government or private non-profit organizations for conservation purposes;

(4) identification of management, monitoring and/or enforcement entities for recommended conservation measures, easements, and lease/deed restrictions;

D. when high resource values warrant retention of a property in public ownership, the Service may recommend that FmHA pursue all available avenues to grant or sell easements, restrictions, development rights, or their equivalents to State or local agencies or private non-profit organizations. The Service may also indicate a desire to bid and acquire the property itself should FmHA declare that property surplus and offer it for sale. In order for such recommendations to be feasibly considered by FmHA, the Service field staff will consult with FmHA to gain an understanding of FmHA's property transfer authorities, priorities, and procedures; and

E. Service recommendations will be submitted to, and considered by, the County Supervisor prior to any suitable/surplus determinations, or if such determinations have already been made, they shall be considered upon receipt. For those properties currently in inventory, fish and wildlife conservation measures will be developed prior to resale

whenever required by FmHA regulations. Recommendations accepted by FmHA will then be included in subsequent disposal actions.

IV. General: Each agency will designate appropriate field and State Coordinators to implement this Memorandum of Understanding.

A. FmHA County Supervisors will serve as day-to-day field coordinators for lands within their jurisdiction. FmHA State Directors will appoint either the Farmer Programs Chief or State Environmental Coordinator (with the other named as alternate) as the overall FmHA State Coordinator for implementing this document.

B. Service Regional Directors will designate State Coordinator(s) for each State to work directly with FmHA County Supervisors and FmHA State Coordinators to implement this document. The Service State Coordinator will be assisted by designated biologists responsible for field reviews.

C. Within 30 days of the enactment of this Memorandum of Understanding the State Coordinator for each agency will meet to initiate appropriate implementation activities (e.g., establish protocols, identify county contacts, screen existing inventory tracts, prepare for processing new tracts).

D. Timeframes for notification, analyses, reviews, resulting actions and transmittal of comments will conform to FmHA requirements. Telephone responses, followed by written documentation, are acceptable. Unless otherwise mutually agreed to by the Service State Coordinator and the affected County Supervisor, the Service will complete its review and provide a written response for inventory property matters within 45 calendar days from notification of the opportunity to comment. For technical assistance requests involving Farmer Program applications (loan), the Service will respond within 15 days of the request unless FmHA indicates in its request that a guaranteed loan involving an Approved Lender is concerned, in which case the Service will respond within 10 days of the FmHA request (in most cases, this can be handled via telephone response). If the Service does not respond within these timeframes, FmHA may proceed to make any required environmental review and analysis on its own.

Final decisions, including any land disposal actions, shall rest with the FmHA approval official for the action. Resolution of outstanding issues within a State will be at the State Coordinator level and will not incumber the specific action in which the question arises. Unresolved issues and those of a multi-State nature will be addressed at the Regional and/or Washington Office level of the Service and the National Office level of FmHA.

This Memorandum of Understanding is effective immediately upon the last signature date below and will continue in effect until modified or revoked by agreement of both parties, or revoked by either party alone upon 30 days written notice. Modifications to this document may be made by mutual agreement and such modifications will be in effect upon signature of the modified document.

Director,
U.S. Fish and Wildlife Service

5/1/87
Date

Administrator,
Farmers Home Administration

May 14 1987
Date

Attachment 1 follows:

ATTACHMENT 1

LIST OF IMPORTANT RESOURCES

1. Wetlands, as defined in Executive Order 11990, Protection of Wetlands, and U.S. Department of Agriculture Regulation 9500-3, Land Use Policy.

2. Riparian zones, floodplains, and coastal barriers.

3. Threatened and endangered species (including proposed and candidate), for example:

   (a) critical habitat(s);

   (b) known occurrence (for example — perch sites, feeding area(s) migration stop-over sites, etc.); or

   (c) potential habitat(s) for release, restoration, and/or reintroduction, which would facilitate down listing or diminish the need for listing.

4. Fish and wildlife habitats of local, regional, State or national importance, for example:

   (a) as identified by Congressional Mandate, International Treaty or Management Plans;

   (b) of potential benefit to species of Federal trustee responsibility (e.g., Migratory Birds, Anadromous Fish, Endangered Species); or

   (c) as identified by State or private non-profit organizations.

5. Aquifer recharge areas of local, regional, State or national importance, as identified by Federal or State agencies or private non-profit organizations.

6. Areas of high water quality or scenic value, including wild and scenic rivers and wilderness areas, as identified by Federal or State agencies or private non-profit organizations.

Senator FOWLER. Thank you.

I will ask Senator Bond to begin.

Senator BOND. Thank you, Mr. Chairman.

As you noted, Mr. Dunkle, we are primarily concerned with agriculture here. But let me ask what needs to be done to make sure that that 5 to 7 percent of the Farmers Home Administration which is suitable for wetland restoration gets restored as wetland waterfowl habitat? Is that within your power? Do you need laws, directives or anything, or can you just get the job done?

Mr. DUNKLE. With the Farmers Home and the Fish and Wildlife Service at this point, we do have the tools to start getting this done. Mr. Clark and I are moving in that direction. We will accomplish the job. Under the Farmers Home and Fish and Wildlife Service memorandum, there are other opportunities also in the 5 to 10 percent level with the other credit groups that would enhance our work.

Senator BOND. Certainly from my standpoint I would encourage you to do so, and would welcome any further thoughts you have on how we might facilitate that work with other entities, perhaps involving third parties.

Mr. DUNKLE. May I put recommendations in that line with your staff?

Senator BOND. Please. I would appreciate that.

[The material follows:]

Alternatives are:

If Federal acquisition of Credit System properties occurs, the Farmers Home Administration mechanism could apply, as the authority (Executive Order 11990, Protection of Wetlands) would remain the same.

If Federal credit guarantees or some other forms of special assistance are provided to entities other than the Farmers Home Administration, such as modification of Conservation Reserve Program criteria, one condition for receipt of such assistance could be the requirement that Credit System properties be made available for wetland restoration activities.

Federal acquisition or credit guarantees to the Credit System could be limited to only those lands made available for wetland protection and restoration efforts.

Senator BOND. Mr. Clark, I'm not sure exactly how it was received at the Farmers Home Administration, but as we have talked about the problems of the Farm Credit System, there have been suggestions that the best way to handle part of the problem is just to transfer the Farm Credit System property to the Farmers Home Administration. The argument being that besides infusing cash and leaving them the management burden, we would also make it easier to control the detail of property.

Several questions about this. How would this impact your responsibility? What obstacles do you see? And could you even conceivably handle this project?

Mr. CLARK. Transferring our property to Farmers or——

Senator BOND. The other way around. Yes, you get Farm Credit System land.

Mr. CLARK. Well, our plate is running over already. I think that would be a terrible idea. I do not have the manpower.

We are running about 2,000 short in our Agency already. And I tell you, that would probably inundate us.

My friend from the insurance company talks about the avalanche coming down and the snow shovel. In the bureaucracy of

Government, it takes us months to even go out and buy the snow shovels. So I don't think that would work.

Senator BOND. Harsh letter to follow. All right.

Mr. CLARK. It would just be inconceivable to me that would be a plausible solution to their problem.

Senator BOND. Well, I appreciate your subtlety in answering it. I get the drift of the settlement.

Mr. Chairman, I think he's taken care of my questions.

Senator FOWLER. Mr. Dunkle, I am, and to both of you, I am extremely pleased to see this kind of cooperation between the Service and Farmers Home talking about wetlands and the opportunity that we have to preserve, restore and, I guess, recapture many of our most fragile and vanishing wetlands.

I would like to follow up for a moment and ask you a couple of specific questions, Mr. Dunkle, on this memorandum of understanding, which I refuse to call a move as I see bureaucratically has been denominated.

Can you tell us a little bit about how this thing is supposed to work? For instance, which agency is responsible for the cost of restoring the wetlands, and which agency is going to be responsible for enforcement if it works, if the memorandum of understanding works?

Mr. DUNKLE. May I add one thing before I start to answer the question?

Senator FOWLER. You may.

Mr. DUNKLE. Acronyms are interesting. I caused a bit of consternation with our agency by a very short memo that gave a Webster's definition of what an acronym was. The second part of the memo said do not use them any more in our correspondence—and there are some people who don't know how to talk without them.

However, you will note in correspondence from the Fish and Wildlife Service, there will be no more acronyms coming out.

Senator FOWLER. Wonderful. [Laughter.]

Well, I may vote for a 10 percent increase in the Fish and Wildlife. [Laughter.]

Mr. DUNKLE. I'll make some other changes if you would care to raise that to 20. [Laughter.]

Senator FOWLER. This is not on live television.

I remember Dorothy Parker's definition of horticulture, that you can lead a whore to culture, but you can't make her think. And I wish that we would do a little more thinking and a little less categorizing with our acronyms.

Mr. DUNKLE. The identification of the wetlands is a dual approach. The Farmers Home allows us to look at their inventory. We have these lands coming. We have a team of people working closely with them who look at the lands and say, yes, this we would identify as wetlands or wetlands that could be restored, and then that's how we identify a piece of property.

Then, the next thing, who pays for any restoration and who does it? Well, we do, or we get somebody to do it. We will look at the properties as to what might best be done for restoration. We then go to the States or to private groups and try to initiate with them a restoration program. We think that at this point we can handle that, without asking for large amounts of appropriated money.

We're trying to work with States and with private organizations, and with private individuals, to move ahead.

We will be expending appropriated money from the Fish and Wildlife Service. In instances on larger areas, we would probably try to do some of that.

Senator FOWLER. Has various Farmers Home property been resold yet with wetlands deed restrictions in it?

Mr. DUNKLE. In one instance, I believe, where there has been a deed restriction placed on it in Ohio.

Senator FOWLER. Are you getting some enthusiastic, or maybe that's—a good response from nonprofit organizations?

Mr. DUNKLE. Yes, we are.

Senator FOWLER. State agencies that want to help you, and not only identify it but to enforce?

Mr. DUNKLE. Yes, sir. In many instances, it's a matter of just don't do anything more to the land and let it return itself to wetlands by not draining, by plugging ditches, very simple opportunities.

What we need from the States and others is the management supervision thereof, and the States are very willing to take this over. There are many opportunities where these lands become available for public use, for public hunting, and for the production of waterfowl.

Senator FOWLER. Have you reached the stage that you have identified any lands, especially large tracts of land that have such significant resource value that you anticipate recommending that they go under the National Wildlife Refuge System?

Mr. DUNKLE. There are some properties that would lend themselves to that except there is no legal way to do it, and you would have to—you as a Congress would have to entertain legislation to allow us to do that.

Senator FOWLER. Well, I understand that. But we would appreciate your recommendation. It would go a long way toward Congress acting if, as a result of this program, you identified those kind of tracts that had those kinds of resources that could only be adequately protected if it went under the National Refuge system.

Mr. DUNKLE. We would be glad to give you recommendations. I will have those forwarded to you.

Senator FOWLER. Thank you.

[The material follows:]

While no formal review and consideration of tracts having potential for transfer to the National Wildlife Refuge System has been initiated, I am nevertheless aware of several tracts that would likely qualify. In Louisiana, 4 separate tracts totaling 1,034 acres have been preliminarily identified. In Mississippi, 3 large tracts involving approximately 7,900 acres and 6 smaller tracts ranging from 40 to 450 acres are strong possibilities. In Minnesota, 1 tract of 80 acres definitely would warrant transfer.

Senator FOWLER. Thank you.

Mr. Clark, I know I am going to go a little bit beyond the limit here, but I must use this opportunity, especially the testimony that you've heard, to ask you a couple of questions. And again I went through your testimony.

You know we may be recommending all these restructuring tools that you have had, and we hope would be a tremendous help to the

Farm Credit System, as you heard us discussing a lot of proposals to go that way.

You also probably heard, as I was getting the exact number and I had them check it, in Georgia we've only had a dozen or less farmers that have settled their debt with Farmers Home Administration and have leased or been able to buy back their farms. Only 12 I think. Mr. Miehe said there were 5,000 or something like that in Minnesota.

We've had over 600 Farmers Home borrowers in Georgia alone to file for chapter 12 bankruptcy.

As I know you will agree, this debt settlement procedure, I guess, for lack of a better term, with the leaseback, buy back option, was intended to be the safety net to keep conscientious family farmers back on the farms.

What has gone on? Why that record in Georgia and in other places also?

Mr. CLARK. I'm not sure I can answer that, Mr. Chairman. I've asked myself the same question.

On the surface, that looks like a fine parachute, a good idea. Why not take advantage of it, if you're the farmer, to lease that property back, that homestead, if you will, and with the option to buy it?

I can't answer that question. I've got my own personal feelings that many don't want that opportunity. They've had all this tragedy as a farmer and say, "nothing doing, I'm going to get up and get out and go somewhere else, try something else."

There are very few cases where they're finding employment opportunities in their local area where they can exercise that opportunity to stay in their home with a few acres around them and work somewhere else off that farm.

I think employment opportunities are playing a role in this as well. They are not finding those opportunities around that allow them to stay on that property.

Senator FOWLER. Well, I will report to you, Mr. Clark, I'm not being argumentative here, but I want to report to you from Georgia, having had five full hearings in Blakely, Fort Valley, throughout south and southwest Georgia, that there has been no testimony from farmers, nothing of that kind. They want their farm back. They want to find a way to do it. They are willing to submit to almost any restructuring settlement possible. But they feel like they 've hit a wall in dealing with the Farmers Home Administration.

Mr. CLARK. Could we be talking about two different things here? I'm talking about the Homestead provision that allows them, once the property is gone, to come back and lease the homestead with an option to buy.

Senator FOWLER. Right.

Mr. CLARK. You're talking about restructuring, buying the whole——

Senator FOWLER. No. I'm talking about all of the tools available that we thought we had available under the law, whether or not—I'm talking about the Homestead provision also.

But again the records speak. Just tell me this, why is it that we have 12 restructurings in Georgia and 4 or 5,000 in Minnesota, in the St. Paul District?

Mr. CLARK. Well, I'm not sure what you're talking about. Restructuring, allowing them to do all those things just to keep them on the farm?

Senator FOWLER. Right.

Mr. CLARK. Senator, I think I'm going to have to backpedal here a bit.

As you know, we have litigation going on, a class action suit in the Dakotas, and a lot of those issues are on the judge's table. I don't really think I should expand on some of that.

Senator FOWLER. I'm not asking for anything and nothing I'm asking for has anything to do with jeopardizing any testimony in the lawsuit.

I would like for you to reflect on this with your people and see if you can give us a written answer to those questions.

Mr. CLARK. I'll be happy to see what I can do about this. I think we have good management in your State. We have an experienced ag lender who runs that operation and dedicated people working for him.

I'll be happy to look into it. I think your numbers are wrong, and I'll be happy to reflect on those more accurately with you if they are different.

[See pages 95–97 for the response of Mr. Clark.]

Senator FOWLER. Thank you.

Well, welcome to the chairman of the full committee.

The CHAIRMAN. Thank you.

Senator FOWLER. The distinguished senior Senator from——

The CHAIRMAN. Junior. I only look senior. The senior Senator looks a lot younger.

Senator FOWLER. You're the bald fellow.

The CHAIRMAN. I'm the bald fellow.

Senator FOWLER. I was going to say tall fellow.

The CHAIRMAN. Tall fellow, yes.

Senator FOWLER. Senator Leahy from Vermont, the chairman of the full committee, welcome.

STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM VERMONT

The CHAIRMAN. Thank you, Mr. Chairman and Senator Bond. I'm only going to be able to stay a couple of minutes.

First, I want to thank both of you again for coming to the hearing last week in Vermont. I am glad you are having these hearings. I think it's an extremely important subject.

And I would ask, Mr. Chairman, if my full prepared statement might be put in the record.

Senator FOWLER. Without objection, so ordered.

The CHAIRMAN. I hope these hearings might answer a very basic question.

Are we going to be able to assure our fellow Americans that our greatest natural asset of prime agricultural lands is going to be there for future generations? Are we going to be able to provide as-

sistance so that family-sized operators will have an opportunity to own and work the land? I think we can if we are willing to have the foresight to work together on legislation to turn the kind of tragedy we are seeing now, with all the foreclosures of land across the country, into tomorrow's opportunity.

I mentioned the hearing in Vermont, and I think we would hear some of the same things if we were in Missouri or Georgia or anywhere else. You hear an awful lot of farmers saying how can I tell my son or daughter to go into farming, there's an opportunity in it, it's a life that you can have, that can be part of your family. A lot of farmers aren't willing to say that.

I've stayed in the homes of farmers where they have been there for five, six generations. Some farms remain a couple of hundred years in the same family. And they say we're the last.

I just think we are making an awful mistake. I know we're going to hear suggestions about taking the acquired property of the Farm Credit System, and transferring it to Farmers Home for resale. There's a lot to be said for such an idea, but I'm concerned about the track record of the Agency, Mr. Clark, in management and the resale of acquired properties.

We have a report, dated——

Senator FOWLER. Mr. Clark has said he doesn't want them right before you came in.

The CHAIRMAN. I suspect because the USDA Inspector General's report in June of this year on Farmers Home's policies and procedures for managing and leasing acquired properties stated that 73 percent of inventory properties reviewed had one or more problems identified in terms of inadequate controls over the management or the leasing of the property. That's kind of high.

Are you and the Inspector General speaking to each other these days?

Mr. CLARK. In the hall.

The CHAIRMAN. I see. I see.

Do you think his report is accurate?

Mr. CLARK. Well, the OIG picks on a lot of the agencies in the Department. I guess, if you push me at all, I'd say he's wrong. I think we do do a better job than that.

The problems involved in leasing is one reason we don't want to lease it either. And we've kind of pulled back a bit on that.

The CHAIRMAN. Yes, but remember your charter, why you're there. You're not the Chase Manhattan Bank or Citibank or First National Bank. You're the Farmers Home Administration. You are there to fill in where nobody else does. You're there to help farming continue.

If major corporations need help in farming, they go to major banks. But if we have a way of taking these properties and keeping them in farming, it kind of comes down to you and your Agency doesn't it? I mean isn't that the reason for it? If it's not, should we just get rid of the Agency?

And I don't mean that question rhetorically. I mean isn't that really the issue?

Mr. CLARK. Senator, I think if it makes sense to lease, we ought to do it. If it does not, we should not in the best interest of the Government. And that is our direction to our field. If it makes sense, if

it's in the best interest to the Government, let's do it. If it does not, let's not do it.

The CHAIRMAN. In the best interest of the Government I don't want to split hairs on this. The people are the Government. This is not just the balance sheet of an agency at the end of the year. It's how many people they have helped, how many people they have made it possible to remain in farming, how much land was productively used—not unnecessarily used to stay in farming. That's the reason for the Agency's existence. It's not out there like some kind of a bottom line accounting procedure; just numbers, dollars and cents on a ledger sheet. We are talking about people.

I would hope that is the issue involved in Farmers Home. No agency of Government is given a mandate to fail. Farmers Home goes in with the understanding that there will be some failures in individual properties and, in fact, if there aren't any, then Farmers Home really has not been as a lender of last resort.

I didn't mean to get off on that, Mr. Chairman. You were kind enough to give me some time. But I wanted to emphasize how concerned I am on this whole issue, and that it really is a priority of mine. I compliment you and Senator Bond on having these hearings. I look forward to seeing the results of them.

[The prepared statement of Senator Leahy follows:]

PREPARED STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM VERMONT

Good morning. I am very pleased to see this Subcommittee taking on such an important and timely subject today as the management of inventory land held by agricultural lenders. I commend the Senator from Georgia, Senator Fowler, the Chairman of the Subcommittee, for giving us the opportunity to explore this issue today, and, by doing so, to provide us with additional insights on this question as we move forward with farm credit legislation.

As a result of the recent recession in the agricultural economy there has been an increase in the amount of acquired property held by lenders. Agricultural lenders currently hold nearly 10 million acres of land. No lender wants to be in the position of holding vast tracts of agricultural land; but, many are now in that role. And, as some of this country's largest land stewards, they must be held responsible for that stewardship. That is what we must look at today.

What is being done with this land? Who is working this land? What is being produced on it? And what conservation measures are being taken? Are the lands which are held by the FmHA, the government's lender of last resort, being managed in accordance with the law? What will be the condition of this land when it is passed back to individual ownership? And, who will ultimately have the opportunity to purchase this land? These are some of the questions that come to mind as we think about the vast holdings of agricultural lands in the hands of lenders.

It is indeed unfortunate there have been so many displaced farm families. The very fact that so much agricultural land is now in the hands of lenders is a sad commentary on what has happened to the heartland of America—some will call it a modern day tragedy that rivals the Great Depression. Are we about to compound the tragedy by allowing this land to be farmed in a manner contrary to national objectives? Are we now witnessing a transfer of the nation's agricultural land from the family farmer to corporate ownership? Will this be the result of this current tragedy?

And, will we allow this land to be farmed in a manner inconsistant with the soil conservation objectives we so carefully put into place in the 1985 Farm Bill? Can we afford to let this vast quantity of our country's farmland to be managed without regard for sound stewardship practices?

Or, will we take this opportunity to capitalize on the fact that large tracts of land are now in the hands of a few private and public lenders? With fewer temporary owners it could be easier to achieve national objectives—if we put into place incentives for conservation and an orderly transfer of property back to family size farms.

Will we be able to assure our fellow Americans that our greatest national asset—our prime agricultural land—will be there for future generations? And, will we be

able to provide the assurance that family size operators will have an opportunity to work and own this land? We can—if we are willing to work together and have the foresight to develop legislation designed to turn this present tragedy into tomorrow's opportunity.

Senator FOWLER. Thank you, Mr. Chairman.

Mr. Clark, I'll give you the last word of anything you want to say. But since you are going to write me, let me add one more request. Because I'm not interested in the battle of statistics. None of us are. We know, I think the goal, as Senator Leahy has just stated, and we've all stated this morning, is to figure out how to get family farms back where humanly and bureaucratically possible.

But let me mention one thing to you in passing with your staff and people here, that I wish that you would address specifically for me.

In Georgia, we have small towns, many, many small towns that are literally drying up. I have been in those towns in holding these hearings, as I've described, and seen the many Farmers Home inventory single-family dwellings that are unoccupied.

In one community that I could name, there are a dozen empty brick houses on one street within two blocks of families living in houses that are so bad they literally had dirt floors.

I'm not sure of what the holding period is before you can auction these houses off. And what I wish you would look at, and write to me about specifically, is whether or not there is any flexibility in your authority to lower requirements for eligibility on such properties that obviously have been hard to sell. If you do not have flexibility, since they're just sitting there empty, then we ought to look at it and see if we can help you. But if you have that flexibility, I can point to you where the need is there, the houses are sitting empty, and your people on the ground seem to say that their hands are tied and we need to untie them.

Mr. CLARK. I would be happy to respond to you.

Senator FOWLER. Thank you.

United States Department of Agriculture
Farmers Home Administration
Washington D.C. 20250

AUG 28 1987

Honorable Wyche Fowler, Jr.
United States Senate
Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Fowler:

At the recent hearing of the Senate Agricultural Subcommittee on Conservation and Forestry, you asked that we provide information concerning Farmers Home Administration (FmHA) practices concerning farm and single-family residential inventory property.

The first question concerned our experience with the leaseback/buyback program in Georgia and other States, and in the context of the debt restructuring activity of the St. Paul Federal Land Bank of the Farm Credit System.

We have no current information about the level of debt restructuring actions of the St. Paul bank in its multi-State service area, and are therefore unable to make any meaningful comparison of its loan restructuring activity and the leaseback/buyback program of this Agency.

The Food Security Act of 1985 authorizes the leasing or leasing with option to purchase of farm property in FmHA's inventory to previous operators and owners of the farm. To be eligible, a lessee must have sufficient financial resources, farm management skills, and experience to assure a reasonable prospect of success in the operation. We recognize that circumstances beyond a farmer's control--such as natural disasters, high interest rates, and depressed prices--can contribute to a lack of success in the farming operation. For that reason, we have instructed FmHA's county office staff to take such factors into account in making loan decisions.

Few farm borrowers, however, have been able to take advantage of the leaseback/buyback program because the same economic forces that made it impossible for them to continue the original operation make it difficult, if not impossible, for them to develop the financial resources necessary for a successful leasing operation. Nationally, 288 former operators and owners were leasing back their farm from FmHA as of June 30, 1987, and 48 farms had been repurchased. Of those being leased, 153, or more than 50 percent, were in the two States with the highest number of farms in inventory, Iowa and Missouri. Nineteen of the 48 farms purchased were in Missouri. Georgia reported 3 farms being leased and 5 purchased, placing it ahead of almost two-thirds of the other States in leasing and behind only 6 other States in purchases.

FmHA Farmers Home Administration is an Equal Opportunity Lender.
Complaints of discrimination should be sent to:
Secretary of Agriculture, Washington, D.C. 20250

Bankruptcies are not a reliable guide to the success or failure of the leaseback/buyback program. Bankruptcy, in Chapter 12 cases, provides some protection for the borrower while a reorganization plan for continued operation is being worked out. Our records show that 269 FmHA farm borrowers in Georgia had filed bankruptcy petitions, but only 25 had discontinued farming operations due to bankruptcy, as of June 30.

Overall, Georgia's record in leaseback/buyback activity is among the most active of the 50 States, and is far ahead of most of them. Under the general category of loan restructuring, 600 of the 7,500 FmHA farm borrowers in Georgia have received some form of special servicing action such as rescheduling, reamortization, deferral or subordination of FmHA lien position to allow a private lender to extend new credit.

Two other questions concerned single-family housing inventory in Georgia. One concerned a situation where there are "a dozen empty brick homes on one street within two blocks of families living in houses that are so bad they literally had dirt floors." The other requested information on the holding period before the houses could be auctioned and whether FmHA has flexibility in lowering eligibility requirements on hard-to-sell properties.

Since you did not name the town where the "dozen" houses are located, we were unable to pursue that specific situation. If you provide the name of the town, we will be glad to look into that and report further to you.

As to auctioning single family homes, our regulations set forth no specific holding period. If the housing is suitable for the Section 502 program, we make every effort to rehabilitate it and retain it for program-eligible purchasers (who normally would not be reached by an auction process). Very few program-suitable houses are ever auctioned, and then, only after extensive sales efforts have not produced a buyer, and prior approval for auction has been given by the National Office.

FmHA has structured its regulations on eligibility in a manner we feel will enable the most people possible to qualify. This includes such things as not having minimum income or minimum time in present employment requirements. Applicants are weighed on their own merit rather than against "rules of thumb." The basic requirements are that the applicant be credit worthy and have the ability to repay the proposed debt (with subsidy) and meet the other obligations of homeowners, such as payment of property taxes, insurance and home maintenance, as well as necessary family living expenses. These determinations are based on a budget using the individual applicant's income and expenses.

We feel strongly that lowering these very basic requirements would not benefit purchasers who would not have the resources to meet the normal obligations of homeowners. If it cannot be projected that a program buyer has reasonable expectations of becoming a successful homeowner, no enduring good has been done by placing them in a situation where failure is predictable.

The area where FmHA may have some additional flexibility is in the area of pricing inventory homes. We have already published for comment a rule proposing to systematically reduce prices of houses which do not sell readily. After each price reduction of a program-suitable house, there will be a period (probably 45 days) during which offers from program-eligible applicants only may be considered. As proposed, this would reduce market value 7 1/2 months later. There may be some very low-income persons who could qualify for the smaller debt who could not afford to pay market value even with maximum subsidy. While we realistically believe this category is very small, we have attempted to structure the proposed regulation to give such people the maximum opportunity to buy a home.

Sincerely,

/s/ VANCE L. CLARK

VANCE L. CLARK
Administrator

Senator FOWLER. Mr. Clark, have you considered and have you asked for additional people to supervise the land you're talking about, the avalanche and the snow shovel?

You might, in your letter to us, address any additional needs you think you have to do a better job in managing these inventories in light of testimony we've heard earlier today. If there's anything that we can do to facilitate better conservation practices on your inventory of land, I hope that you will include those recommendations in your letter.

Mr. CLARK. Thank you, Senator, I appreciate it.

Senator FOWLER. Thank you all for coming. Thank you, Mr. Administrator, very much.

Our last, but not least, panel, Dr. Joe Marshall, president of Southern Plantations Group, Inc. in Albany, Georgia; Gene Severens, staff attorney for the Center for Rural Affairs in Walthill, Nebraska, accompanied by Jerry Hansen of the Center for Rural Affairs, in Walthill, Nebraska; Mr. Ralph Grossi, president of the America Farmland Trust here in Washington; and Ken Cook, senior associate of the Conservation Foundation in Washington.

Welcome, gentlemen.

Gentlemen, this is the panel I hope to—after all the testimony, I know we're going to get a lot of suggestions here. So, as we say around here, my drop dead date is 12:10, or we will be in deep, deep trouble. But that will give us 25 minutes if you can summarize to the best of your ability, and we will have a chance to discuss.

I'll begin with a fellow Georgian, Dr. Marshall.

Dr. Joe Marshall, welcome.

STATEMENT OF DR. JOSEPH H. MARSHALL, PRESIDENT, SOUTHERN PLANTATIONS GROUP, INC., ALBANY, GA

Dr. MARSHALL. Thank you, Mr. Chairman.

My name is Joe Marshall. I am President of Southern Plantations Group, Inc., Albany, Georgia. I am a native Georgian and a graduate of the University of Georgia and Cornell University. My activities, and the activities of my company, are concerned with the direct operation of farmland, the supervision of rental farmland, the management of woodland, and consulting on agricultural matters for public and private clients. Our clients include insurance companies, the Farm Credit System, private landowners, and Government agencies. We provide employment for former farmers and other rural residents, and supervise the rental of farmland and agribusinesses to farmers and rural businessmen.

In the interest of time, I will skip over some of my prepared testimony.

There have been many sales of acquired farm properties. These have been sold mostly to local buyers who just wanted a piece of ground, or who wanted a recreational property, or who wanted it for some economic reason. It is my belief that this demand is being filled now and thus not a source of future buyers when additional acquired lands are available for same. If and when this occurs, we could see a further decline in farmland prices and calls for more Government funding.

Senator FOWLER. Are these first-time buyers? How many of those are first-time buyers?

Dr. MARSHALL. Many of these are first-time buyers, typically business, local business and professional people buying several hundred acres as a hunting property. In some cases, you find local farmers adding to.

But, in our area, it's been more nonfarmer buyers than farmer buyers.

Senator FOWLER. But mostly from within the State?

Dr. MARSHALL. Yes, most. There are exceptions, but mostly within the area. Yes.

One clear cause and/or result of the current agricultural situation is that we have an overcapacity of production of most, if not all, farm commodities that have Government support programs.

Many of the affected farms are marginal business enterprises, even without consideration of debt, and add production to an already overproduced agricultural economy at a cost higher than the most efficient producers, thereby incurring a cost to be borne by the consumer or Government subsidy.

Many of the farms are properties best suited for other uses than the uses to which they have been put in the past two decades. They should be returned to natural areas, recreational uses and timber production.

Most of the farm programs do little to reduce effectively long-term production, or even short term. Most of the current programs are concerned with getting through the next crop-year and do not consider the long-term need to scale down U.S. farm production and save U.S. farm families by assisting them in making adjustments to other pursuits in life.

My proposal for your consideration is this:

For all—acquired or inventoried—farm properties receiving a Government subsidized write-down or write-off, all Government production allotments, bases, yields, and quotas be retired from the land and not be transferred to any other land. Further, the land receiving the federally funded write-down or write-off be prohibited from producing any crops of products receiving Government support or subsidy for a period of 10 to 25 years.

The savings in agricultural payments for commodity price supports and other payments would, in time, equal or surpass the write-downs and write-offs of the debts against the farm and its market value in a new use. New uses could include private sale for recreational uses, hobby farming, timber production, and certain properties could be converted to natural areas for public ownership.

Senator FOWLER. Mr. Cook, what do you think about that suggestion?

Mr. COOK. Well, Mr. Chairman, I think that in looking at the issue of inventory lands in general, the first principle should be to repatriate it as consistently as we can with a greater public purpose; in a way that doesn't tie up this land for a long period of time, and slow down the inventory process; and in a way that gets the land back in the hands of family producers.

Land that's very vulnerable to erosion, or land that has special wildlife value, is in a different category in my mind. I think we

need to look at a lot of different proposals, including this one which I have not had a chance to study very thoroughly.

Senator FOWLER. Mr. Grossi.

Mr. GROSSI. I'm not trying to address the issue of the current inequities with farm programs in the way benefits are allocated.

Personally, I think the extinguishing of certain bases on property so that we don't have the continuing problem of Government support of these programs is a fine idea if it's accomplished before the resale so that the farmer knows what he is buying. As long as it's a fair representation about the farmer, the new owner that's purchasing, personally I think that would be an excellent idea.

Senator FOWLER. Dr. Marshall, do finish and then we will——

Dr. MARSHALL. All right.

In the interest of conservation, surplus reduction, and fairness, I would recommend that any program wherein public funds are to be used for acquiring marginal agricultural properties for the public good, or any other write-down, also be available to acquire properties owned by individuals or institutions who have not yet asked for public funding.

The farm families not involved in the new uses of the land could be assisted through retraining and relocation programs similar to those now used in other industry relocations.

I would further propose that the private sector be involved in this redirection of use of farmland. I believe that a more active and creative marketing program could interest many nonfarmers in investing in rural land as a source of privately owned recreation areas and long-term investment. Also, some of the debt ridden farmlands should be restored to natural woodlands and parklands for the benefit and pleasure of all Americans. Such organizations as the Nature Conservancy and others could assist in the return of these lands to natural areas.

No doubt the organizations presently requesting funding are fully occupied with immediate operating problems and have neither the time nor resources to devote to creating new approaches. Thus, I would suggest that the appropriate congressional agencies act now to cause the development of a series of pilot programs involving the private sector and requiring cooperation of all agencies requesting or potentially interested in Government funds. The development programs, one in each major agricultural region, if implemented now, could provide valuable policy and operational input to a later comprehensive program for all affected farmlands.

In summary, I believe this is a rare opportunity for the Congress to address some of the critical areas in U.S. agriculture with lasting solutions to the problems of Government price supports, surplus reduction, conservation, and structural readjustments in American agriculture. I hope the Congress will seize this opportunity.

[The prepared statement of Dr. Marshall follows:]

Statement of

Joseph H. Marshall

Southern Plantations Group, Inc.

Albany, Georgia

Before the

Subcommittee on Conservation and Forestry

Committee on Agriculture, Nutrition and Forestry

United States Senate

Washington, D.C.

August 4, 1987

STATEMENT

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The current economic status of U. S. agriculture is well known. Some reports indicate as many as one third of U. S. farms have an indebtedness to the extent that they cannot recover. Other reports suggest that major export markets for U. S. farm production will not recover from their current slump due to increased foreign agricultural production and price competition. Thus, the outlook is that our farm economy as presently constituted will continue to have economic problems.

A major portion of the U. S. farm debt is held by the Farm Credit System and the Farmers Home Administration. Both have asked for federal assistance, or increased funding in the case of Farmers Home. The 6 billion asked by the Farm Credit System and initial requests by Farmers Home are only a beginning. In addition, the insurance companies, commercial banks, and others lending to agriculture are experiencing similiar conditions. There are many additional delinquent properties yet to be acknowledged and reported.

There have been many sales of acquired farm properties. These have been sold mostly to local buyers who just wanted "a piece of ground", who wanted a recreational property, or who wanted it for some economic reason. It is my belief that this demand is being filled now and thus not a source of future buyers when additional acquired lands are available for sale. If and when this occurs we could see a further decline in farmland prices and calls for more government funding.

Statement by Joseph H. Marshall, President, Southern Plantations Group, Inc., P. O. Box 1683, Albany, GA 31702, (912) 439-0012 . . . before the Senate Committee on Agriculture, Nutrition and Forestry; Sub-Committee on Conservation and Forestry in Washington, D. C. August 4, 1987.

One clear cause and/or result of the current agricultural situation is that we have an over capacity of production of most, if not all, farm commodities that have government support programs.

Many of the affected farms are marginal business enterprises, even without consideration of debt, and add production to an already overproduced agricultural economy at a cost higher than the most efficient producers - thereby incurring a cost to be borne by the consumer or government subsidy.

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My proposal for your consideration is this:

> For all (acquired/inventoried) farm properties receiving a government subsidized write down or write off, all government production allotments, bases, yields, and quotas be retired from the land and not be transferred to any other land. Further, the land receiving the federally funded write down or write off be prohibited from producing any crops or products receiving government support or subsidy for a period of 10 - 25 years.

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In summary, I believe this is a rare opportunity for the Congress to address some of the critical areas in U. S. agriculture with lasting solutions to the problems of government price supports, surplus reduction, conservation, and structural readjustments in American agriculture. I hope the Congress will seize this opportunity.

Senator FOWLER. Thank you very much, Dr. Marshall.
Mr. Severens, Center for Rural Affairs in Walthill, Nebraska.

STATEMENT OF EUGENE SEVERENS, CENTER FOR RURAL AFFAIRS, WALTHILL, NE, ACCOMPANIED BY JERRY HANSEN

Mr. SEVERENS. Thank you, Mr. Chairman, for holding these meetings today.

In the interest of time, I would like to just go very quickly to some of the major points of my prepared testimony. I would ask, if possible, that my entire testimony and the appendixes be made part of the record.

Senator FOWLER. Certainly will be. Thank you.

Mr. SEVERENS. The credentials of our organization are spelled out on the first page of our prepared statement. I would like to respond to some of the remarks that have been made so far this morning.

First of all, as far as conservation practices, I think it's important to me what is an obvious point, and that is that conservation practices don't come free. Someone has to pay for them, and there's only two people that can pay for them, only two entities that can pay for them, either the Government pays or the private owner pays.

I think the best program combines those two things, but I think it's in the Government's interest to get the biggest bang for their buck. So, they want to be looking for an agricultural system for the private owner. It is that type of private owner which is more willing to voluntarily invest some of their own resources into those conservation practices. And that type of landowner is a landowner who has the longest term interest in that land.

I think insurance companies are holding the land for a short-term interest. They can easily absorb some capital depreciation of that property through soil degradation, they can disguise it cosmetically. It is not in their long-term interest to invest enormous amounts of money into improving the conservation practices on that land. They're holding the land for the short term.

The family farm operator, by contrast, is holding that land for the long term. He will put more of himself and more of his own personal resources into those conservation practices. I think that's the person that the Government should be teaming up with.

Reference was made by both Senator Bond and Senator Leahy to a plan, some Farmers Home's plans.

I would like to mention, or just point out in my prepared testimony that I have two major parts in my testimony, one dealing with Farmers Home Administration and some of the problems in that area. And I hope it's spelled out adequately in the testimony. We have two specific recommendations on page 3 of our prepared statement that needs to be done in order to improve Farmers Home Administration's current track record in disposing of inventory farmland. And I have spelled those out, one and two. I hope the committee will take the opportunity to look those over. We have prepared some language that we think will achieve these purposes. We are working with some other farm organizations and church groups on this. I think it's a fairly simple matter to legislatively correct some

of the abuses in the current disposition of the land property, of farmland inventory property from Farmers Home Administration.

The other point I would like to make, Mr. Fowler, is that in reference to the whole idea of transferring Farm Credit System inventory land to Farmers Home Administration, I think we need to look beyond the statements of the head Administrator of a discredited agency, and look to the mission, the Government or the congressional mission that's been established for which that Agency was created.

Our organization has spent a lot of time monitoring and criticizing Farmers Home. So I don't pretend to be here to defend Farmers Home.

However, I think what is important is the mission for which Farmers Home was created. And the idea of transferring Farm Credit System inventory property to the Farmers Home Administration, when you look at it from the standpoint of the proper mission of Government, it is not a preposterous idea at all. It is very realistic. We need to plan for the future. We need to plan and reestablish that commitment for which the Agency was originally created. We have to look beyond the statements of an Administrator who is committed to terminating any ongoing relationships that that Agency has with current borrowers or the borrowers which the agency was intended to serve. That's why they prefer to sell inventory land to the highest bidder, never mind what happens to it. That's their program to terminate the Agency.

We have got to look beyond that and focus on the proper congressional bipartisan mission that has been established over the decades. And there I think the conclusion is that the Farmers Home does have a role to play. We have to reinfuse it. Congress has the ability to control the Agency. In fact, there are groups out there who feel that Farmers Home can do this job.

Finally, I would just like to, since it's come up for a matter of the record, who owns farmland, I can't let stand what's in the record right now, which are the statements from the St. Paul District that 90 percent of Farm Credit System inventory land is being purchased by local farmers. Those were his words, "local farmers."

I don't know about the statistics in Minnesota, but I can only say from what we know in Nebraska and Iowa, and some of the Upper Midwestern States, that that is simply not true. I don't see how they could possibly justify that statement, even in Minnesota.

So I would like to, while I don't have specific data, I notice that he did not add his date either, and I would like to say that the only nonlender source of information that I know of is a Des Moines Register story which studied land sales in one county in Iowa, and the results of that study, which went through all the courthouse records in looking at land sales of the last 15 months, indicated that 70 percent of land being sold in that county was being bought by investors.

I think we are at a critical juncture. Land is beginning to move, Farmers Home Administration, the Farm Credit System are now beginning to sell land. I think we are at a critical juncture, and what's at stake is an enormous opportunity to take any steps in implementing conservation practices and in developing opportunities for family-sized farmers to begin operations.

Land has reached the place where you can, in many parts of the country, pay for the land by farming it. This is just the point in time where Congress needs to seize an opportunity and do something about it. This opportunity will not come again in our lifetimes. This is an opportunity to do something, and we've got to look beyond the shortsighted comments of the Administrator of a demoralized agency. And we've got to make them do the job that needs to be done in line with the public purpose that has been established and reiterated over and over by this Agriculture Committee and the Congress.

Thank you.

[The prepared statement of Mr. Severens and Mr. Jerry Hansen follows:]

Testimony of
Eugene Severens and Jerry Hansen
Center for Rural Affairs; Walthill, Nebraska

before the
U. S. Senate Agriculture Subcommitee on
Agricultural Research, Conservation, Forestry
and General Legislation
Washington, DC; August 4, 1987

Mr. Chairman, my name is Eugene Severens. Jerry Hansen, who is also here today, and I work for the Center for Rural Affairs in Walthill, Nebraska. We would like to thank the subcommittee chairman and members for holding these hearings on the conservation implications of the growing farmland inventories of agricultural lenders. The Center was formed in 1973 by rural Nebraskans concerned about the role of public policies in affecting the integrity of both the family farm system of agriculture and the farmland itself.

We think the proper use of farmland and the family farm system are intimately intertwined, and public policies in both areas are, by necessity and logic, closely linked. For ten years, the Center has sponsored on-farm research helping family farms explore more efficient ways to use their farming resources. Improving efficiency by reducing inputs has been at the heart of this research. Earlier, this research focussed on working with family farmers in testing the effectiveness of alternative energy practices on the farm. Most recently, this on-farm research has focused on sustainable dryland farming practices.

The Center has also been very active in advocating public policies which provide farming opportunities for beginning and low-equity family-size farm operations. We have consistently opposed the adoption of wide-open agricultural lending policies used by the Farmers Home Administration (FmHA) in the late 1970's, and regard such policies as both bad credit policy and bad fiscal policy. These wide-open policies, used in one way or another by both the FmHA and the Farm Credit System (FCS), are partly responsible for the depth of the current farm financial crisis. The decades-old, bi-partisan public purpose of federal agricultural credit policies, until the late 1970's, has always been very cautious: to make farming opportunities available to efficient beginning and modest-sized operations by giving them a limited and modest interest rate advantage. We believe that that modest vision is still sound today, and that we need to keep it in mind as we fashion new public policies to meet the current challenges in agriculture.

Lender Inventories: A Public Policy Opportunity

One of the most significant by-products of the current farm financial crisis is the accumulation of farmland in the inventories of agricultural lenders. While estimates vary and changes in inventory landholdings occur daily, it appears that there is a total of roughly 7-10 million acres of farmland in all lenders' inventories. The primary lender-landholders are insurance companies, Farm Credit System and Farmers Home Administration, local commercial banks. All of these lenders, of course, are subject to different kinds and amounts of governmental supervision.

Until recently, lenders have been retaining this property for one reason or another. Some may regard the acquired farmland as an investment and are keeping the land in hopes of capturing future appreciation in value. Many would like to sell the land but have been voluntarily "warehousing" it for fear that cumulative, uncontrolled lender sales would have an adverse impact on land values. Recently, however, the FCS and FmHA have begun selling their lands forcing all of us to examine the impact and implications of these sales.

Over the next few years, this inventory farmland will be resold into private hands. We think this inventory resale will be one of the most significant events in U. S. agriculture for the next decade. When land prices reach their bottom, and lenders begin selling this land, we will be entering the farm rebuilding stage of the current crisis. We think two of the most critical federal policy questions during this stage are:

-- will family farmers be able to obtain financing to purchase the newly affordable farmland and spark a rebuilding of family farm agriculture?

-- what opportunities are there for encouraging, or requiring, sound soil erosion practices on this inventory farmland?

Mr. Chairman, within the area of inventory farmland, our organization has been primarily concerned about the farmland disposition programs of FmHA and FCS. We come to this subcommittee with two messages and two recommendations. First message: Congress' farmland inventory system for FmHA is not being properly followed by the agency and, consequently, needs to be repaired. Second message: the pending Farm Credit System (FCS) bailout and its implied "re-federalization" is a once-in-a-lifetime opportunity to implement important public policies in both the areas of family farms and soil conservation.

FmHA Farmland Inventory Policies Are Being Abused

Since 1961, Congress has had an explicit plan for the sale of FmHA inventory property, a plan which regards FmHA inventory farmland as a public resource to be resold in a manner consistent with the historic purposes of FmHA's farm land programs. This plan was reaffirmed in the credit title of the 1985 farm bill [Section 1314; CONACT 335(e), 7 USC 1985(e)], and importantly, new conservation policies were adopted alongside family-size farm rebuiding policies. Section 335(e) serves as a kind of check-point for FmHA inventory policies, and while we think some changes are needed, Section 335(e) shows the administrative complementarity of family farm and conservative policies.

Mr. Chairman, I have attached a copy of our "Information Alert No. 87-05" (July 22, 1987) which discusses both the FmHA farmland re-sale policy set by Congress and the abuses we have observed in the implementation of the family farm resale polcies in Nebraska. I'll summarize the two main problem areas. First, FmHA state officials are summarily declaring that FmHA farmland is "not suitable" for FmHA-eligible family-size farm operations, and, under FmHA's scheme, "surplus" property which can be sold to anyone for any purpose. In selling this "surplus" property, they give

special discounts for cash buyers that all but eliminate family farmers who can't afford to pay cash. The premature classification as "surplus" eliminates FmHA-eligible farmers from buying the land, and the cash discount eliminates most other family-size farm operations.

Second, even where land is determined as "suitable" for FmHA-eligible family farmers, FmHA officials in many states are delaying the sale of this land waiting for the statutory three-year "holding period" to pass. This three year holding period is part of the original 1961 legislation and is designed to reserve a minimum "holding period" of opportunity for FmHA-eligible, family-size operators to purchase FmHA farmland. We believe FmHA officials are waiting out this holding period to create grounds for declaring land surplus and then selling, once again, to ineligible borrowers with cash discounts. This land will be sold as surplus property even though the land was never available to FmHA-eligible borrowers for even one day. By our calculations, 154 family farm rebuilding opportunities will be lost each month by FmHA's delaying tactics.

As you might know, the national office has already proposed changing the statutory three-year holding period to one year by regulation [52 Fed. Reg. 1768-69; January 15, 1987]. As a result of the efforts of Senator Leahy and the Senate Agriculture Committee, FmHA has backed off this plan. Incredibly, however, FmHA is claiming in a lawsuit in federal district court in Nebraska (Kay v. Lyng) that the congressionally established holding period does not require that FmHA-eligible borrowers be given any opportunity to buy the farmland during that holding period. That is the whole point of the holding period. In addition, government lawyers are adamant in claiming that they have the discretionary authority to administratively shorten the three-year holding period to as short as they want.

Recommendations: Two important legislative changes are needed in FmHA's basic inventory laws in order to correct the above abuses and establish congressional purposes more explicitly.

1. Explicity language is needed to prevent the use of phoney standards of farmland "suitability" which FmHA is now using to prematurely classify or reclassify "suitable" farmland as "surplus."

2. Language is needed to clarify the three-year holding period and prevent the current abuse of automatically reclassifying farmland as surplus without ever offering it as suitable for FmHA-eligible buyers for even one day. To fully protect the purposes of the suitable property holding period, the beginning point of the holding period needs to be changed to that point when the land is publicly offered for sale as suitable. With this protection in place, the current 3-year period could actually be shortened.

FCS Farmland Inventory Management and Resale Needs Policy Direction

As we all know, the Farm Credit System is in deep financial distress, and some kind of bailout is inevitable. A number of bailout schemes recognize that FCS's farmland inventory is one of the system's last few remaining assets, and these schemes make that inventory an integral part of the bailout plan. We think inclusion of the FCS inventory in any bailout scheme is logical both financially and from the standpoint of promoting

conservation and family farm rebuilding policies. There are several ways that these two public policies can be integrated into the FCS bailout scheme. Some mechanisms are better than others, any mechanism would have to be capable of dovetailing with the prevailing bailout plan. We believe there are two main approaches:

-- outright government purchase of FCS inventory land and
-- government facilitated individual purchases of the farmland inventory.

The attached "Information Alert 87-04" (May 21, 1987) describes a model of the first approach. Financing of the government purchase is provided through FmHA's revolving fund, the Agricultural Credit Insurance Fund, and the FCS inventory is merged with FmHA's and administered as a single unit. An example of the second approach is the creation of a special FmHA FO loan program specifically targeted for the purchase of inventory farmland of the FCS or other agricultural lenders. This example requires an appropriation for the loan funds, the bulk of which would be paid back. Another example of the second approach is to prompt more private lender financing of rebuilding or beginning family farmers by providing interest rate assistance through FmHA. The cost of this approach is the total amount of the interest subsidy. While these models are targeted primarily to the inventory FCS, in most cases they can be extended to other lenders holding inventory farmland. Opportunities for requiring improved conservation practices can be developed as components to any of these examples.

Either of these methods can help implement the following public purposes:

1. provide a cash infusion to the FCS (or other disressed ag lenders);
2. help stabilize agricultural land values by injecting new buyers who would otherwise not be in the market;
3. provide land purchasing opportunities for family-size farms;
4. rejuvenate local economies which are family farm-based; and
5. provide a new check point for conservation practices.

Conclusion

I would like to close of my testimony by refering to a recent Des Moines Register article (May 24, 1987) which is attached. That article describes a recent private investment scheme in which an attempt was made to buy the entire FCS farmland inventories in Iowa, Illinois, and Indiana. That particular effort failed, but such scheming continues. Land sales are beginning to warm up, and we think Congress needs to act now to seize this opportunity to implement farmland inventory policies which both promote conservation and assist in the rebuilding of family farm agriculture. At stake in the development of these inventory policies is the future ownership and control of American farmland and a gigantic leap in implementing conservation practices. Thank you, Mr. Chairman, for this opportunity to provide testimony.

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REBUILDING FAMILY FARM AGRICULTURE
INFORMATION ALERT NO. 87-05

July 22, 1987

FAMILY FARMERS SUE FmHA OVER INVENTORY SALES

Summary: Nebraska family farmers filed a state class action lawsuit against FmHA on May 15 charging that the Nebraska state FmHA office was violating federal law by denying FmHA-eligible family-size farmers an opportunity to purchase the farmland. Instead, the suit (Kay v. Lyng, see attachment), charges FmHA was selling FmHA-owned farmland to investors who were ineligible for FmHA services and outside the scope of clear congressional purposes. In a new development, family farm attorneys have filed documents to curtail future FmHA land sales in Nebraska until the legal dispute is resolved. Information from the lawsuit and FmHA data (described in attachment) show the illegal sales of FmHA farmland may be far worse in other states. Two basic changes in FmHA inventory law are needed.

Additional Legal Action Necessary

On July 15, in a follow-up to Kay v. Lyng, a state class action lawsuit challenging FmHA's sale of inventory farmland to ineligible buyers, Nebraska farmers filed legal documents to prevent the state office from selling FmHA inventory property currently for sale in two Nebraska counties. Attorneys for the Nebraska farmers had asked FmHA state officials to voluntarily stop sales of certain FmHA farmland pending the resolution of the lawsuit. Agency officials declined, and as a result, plaintiffs established a monitoring effort to determine the likelihood of sales on a county by county basis, and the July 15 action was based on this monitoring effort. The monitoring will continue and additional properties will be targeted for similar legal actions as needed. The legal documents, called "lis pendens," serve to inform potential buyers that they are purchasing the FmHA land subject to the outcome of the lawsuit.

Attorneys for the family farmers point out that the lawsuit would eventually become mootif FmHA continued to sell the bulk of the farmland in the current manner pending the final resolution of the lawsuit. The filing of the lis pendens is, therefore, necessary to help preserve the 130-some Nebraska farms still held by FmHA. Typically, the filing of lis pendens documents makes land purchases much riskier, and it drastically curtails buyer interest. In this case, the lis pendens filings will help preserve the farmland for its original family farm purposes.

The Congressional Scheme

Since 1961, Congress has had an explicit plan for the sale of FmHA inventory property, and this plan was reaffirmed in the credit title of the 1985 farm bill (Section 1314). That plan regards FmHA inventory farmland as a public resource to be resold in a manner consistent with the historic purposes of FmHA--making farming opportunities available to qualified operators who have the ability to establish efficient family-size farms. Under Congress' plan, the inventory farmland is classified "suitable" if it can serve the purposes of an FmHA Farm Ownership (FO) loan, and then made available for sale to FmHA-eligible farmers for a period of three years. If

unsold after three years, the land is classed as "surplus" and can be sold to ineligible buyers.

During the three years period, financing is made available to eligible FmHA borrowers at either the regular "cost of money" FO interest rate (currently 9.25%) or the limited resource rate (5%) as appropriate. This financing of inventory sales does not involve a loan of funds from the government but rather a payment to the government; consequently, an appropriation is not necessary to finance these farmland purchases.

How FmHA By-passes This Plan

Based on the evidence from the Nebraska lawsuit, interviews with FmHA officials in other states, and recent FmHA national data, there are two main ways in which state offices are bypassing the congressional plan. First, they are prematurely, and illegally, reclassifying "suitable" farmland to "surplus" so that they can immediately sell the land to ineligible borrowers--preferably for cash. The reclassification is based on unpublished or incorrect criteria that is both illegal and completely inconsistent with long-standing FO criteria established by Congress.

Second, they are purposely not placing "suitable" inventory on the market waiting for the three year "holding period" to pass. They claim that the expiration of three years means the property must be classified as surplus allowing them to sell the land, once again, to ineligible buyers--preferably for cash. However, in waiting out the three-year period they are violating the law and their own regulations which require that the sale of suitable land take place as expeditiously as possible. The national office has already attempted to change the three-year period to one year through regulations proposed January 15 (52 Fed. Reg. 1768-1769) ignoring the fact that the three year period is statutorily required.

The whole point of the law is to provide a three-year "period of opportunity" for family-size farmers to purchase FmHA inventory farms. However, FmHA is interpreting this statutory three-year period not as a period of opportunity but as a fixed period that automatically expires even if the land was never available for sale as suitable property for even one day. Extrapolating from Nebraska data, we estimate that nationally 154 farms will exceed the three year period each month beginning in August 1987. This means 154 family farm rebuilding opportunities will be lost each month.

Situation Worse Outside Nebraska

Recent FmHA data strongly suggests that the situation is potentially much worse in other states than in Nebraska. Many states have much more FmHA inventory farmland than Nebraska (see attached Chart 1).

Recommendation: Two important legislative changes are needed in FmHA's basic inventory laws [7 1985(c); CONACT Section 335(c)]:

1. premature classification or reclassification of "suitable" farmland to "surplus" must be prevented; and
2. the three-year holding period must be clarified to prevent the current abuse of automatic reclassification as surplus without ever offering farmland for sale as suitable for FmHA-eligible borrowers. <>

INFORMATION ALERT 87-05, ATTACHMENT (side 1)
(7-23-87)

DIGEST OF FmHA INVENTORY DATA, FY 1987 (October-March 1987)

Recent data (first 6 months of FY87) suggests that the illegal sales of FmHA inventory could be worse in states outside Nebraska.

Chart 1:

Nebraska ranks 10th in the country for total amount of inventory farmland. Many other states have at least as much, if not more, at stake. As of March 31, 1987, the 15 leading states (in acres) are shown at right. A lot more is at stake in some of these other states. Interestingly, many of these 15 states have not been active in selling land (Chart 3). This is likely to be a very damaging situation since a refusal to sell suitable farmland means that more and more farm parcels will exceed the three-year holding period and be automatically declared surplus under FmHA's interpretation.

1.	MO	181,092 acres
2.	SD	137,356
3.	NM	100,116
4.	KS	90,225
5.	ND	89,682
6.	IA	71,149
7.	MS	69,200
8.	OK	68,422
9.	CO	62,507
10.	NE	52,264
11.	ID	51,175
12.	MN	49,752
13.	WI	43,481
14.	CA	40,400
15.	NY	36,493
Total US		1,579,368

Chart 2:

One index of potential non-compliance is the percentage of total farms ranked as surplus (not suitable for FmHA FO loan purposes). At right are the ten states with the highest record of classifying land not suitable for family-size farmers. Percentages show farmland classified as "surplus" (only states with more than 10,000 acres of 40 farms were considered in this ranking).

1.	GA	82% surplus
2.	FL	81
3.	NM	77
4.	IN	71
5.	ID	70
6.	NY	68
7.	ME	57
8.	KS	54
9.	NC	54
10.	SC	52
Total US		37%

Chart 3:

Probably the most revealing index of non-compliance is in the percentage of actual sales made to ineligible borrowers during the six-month period studied. Among the eight states with active sales (20 or more) during the period, the percentage made to ineligible borrowers is ranked at right (along with total number of sales during the 6-month period). In Georgia, ineligible sales are proceeding at a rapid pace of nearly 6/month.

1.	OH	93% ineligible	29 sales
2.	MO	93	28
3.	GA	87	56
4.	MI	84	31
5.	IN	83	48
6.	TN	82	40
7.	AR	75	29
8.	KY	60	47
	US	20%	534

(over)

INFORMATION ALERT 87-05, ATTACHMENT (side 2)

BACKGROUND ON KAY v. LYNG

In the original action, filed on May 15, two Nebraska family farm couples filed a state class action lawsuit in federal district court against FmHA for illegally denying them the opportunity to purchase inventory farmland held by the agency. The suit charges that FmHA has been violating federal law which requires the agency to give preference to FmHA-eligible and family-size farmers when selling farmland inventory which it has acquired through foreclosure or voluntary conveyance. Instead, FmHA is selling Nebraska inventory farmland to absentee owners, local investors and already well-established farm operations which do not qualify for agency assistance.

The named plaintiffs are two farm and ranch couples from Hoskins and Cody, Nebraska. The Hoskins plaintiffs, Duane and Jodi Kay, are a young farm couple with two small children who were looking for a "starter" farm near enough to Duane's parents so he could share equipment and rent some ground from his family. FmHA put up for sale a 40-acre parcel with a house and some buildings which was just right for this purpose, and although the Kay's were the high bidder, they lost out to a cash-ready buyer who received a special discount for a cash payment. Interestingly, this "cash" buyer didn't tender with his bid the 10% downpayment required by FmHA sale procedures, and he didn't actually pay cash. To finance the sale, he sold 31 of the 40 acres on the same day as the FmHA transfer--presumably with the cooperation of FmHA officials.

The Cody plaintiffs, Steve and Kathleen Barnes, are in their mid-twenties, both from farm and ranching backgrounds and involved in a family ranch operation. In an effort to develop a more independent, family-size unit, they bid on a nearby parcel of FmHA inventory ranchland. As FmHA-eligible buyers, the Barnes' bid should have forced the reclassification of the land back to "suitable" for program purposes. (See our Information Alert No. 87-01, April 10, 1987). Instead, their bid was rejected, and FmHA approved the higher cash bid offered by a Washington D.C. trustee who was acting for an unknown party.

As a state class action lawsuit, the Kays and Barnes represent thousands of eligible and potentially eligible FmHA applicants in Nebraska who are being denied their right to participate in the purchase of inventory farmland. The lawsuit is no substitute for corrective legislation: it will be costly and slow, and at any rate, will not have any legal impact outside of Nebraska.

(Two editorials on the Kay v. Lyng suit are enclosed)

- -

If you are interested in earlier Information Alerts, write the Center for:

___No. 87-01: FmHA Farmland Sales By-pass 1985 Law
___No. 87-02: Transfer of Guaranteed OL Funds to Address Insured OL Shortage
___No. 87-03: Secondary Market Concept Stands Public Policy On Its Head
___No. 87-04: A Plan to Rescue And Rebuild Family Farms

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Today's editorial page was prepared by the editorial board of The Atlanta Constitution.

PAGE 14-A, MONDAY, MAY 25, 1987

Strange doings at Farmers Home

Out in Nebraska, two farm families have filed a lawsuit against the Farmers Home Administration, claiming the agency is ignoring the law and offering much of its foreclosed land to outside investors rather than family farmers. But if the courts think agency practices in Nebraska are strange, wait until they see the figures for Georgia.

As of March, 45 percent of the agency's Nebraska inventory was classed as suitable for resale to eligible farmers (rather than outside investors). In Georgia, however, a meager 19 percent of the 36,071 acres in the Farmers Home inventory is earmarked for resale to eligible farmers. The remaining 81 percent will go to the highest bidders, such as timber companies.

Yes, something is fishy here. In 1985, Congress passed legislation which instructed Farmers Home to give farmers with limited resources the first crack at buying land the agency had acquired through foreclosure or liquidation. True, this puts the agency to some trouble and likely means lower prices. But never mind. The agency's mandate is not commercial, it is to help farmers who cannot get help elsewhere.

The question in Georgia is this: How can 81 percent of the agency's land — land once used as collateral by family farmers — be classified as unsuitable for resale to family farmers? The official answer: Much of this land was collateral for *emergency* loans in drought years, and the standards for these are looser than for other farm loans. Thus, the foreclosed land was not necessarily farmed and may not be suitable for resale to farmers.

It's a dubious reply. Congress clearly meant for land acquired from emergency loans to stay in the hands of family farmers if possible. Georgia's ratios suggest that Farmers Home is trying to evade that wish.

Why would it? Consider: Before land can be resold to eligible family farmers, the farmer who lost it first has an opportunity to lease it for three years. If he fails to buy it back in that time, it will be bid upon by other farmers of limited means. But — if the land is classified as unsuitable for the program, Farmers Home may dispose of it more quickly, and it may take the best bid from well-heeled outside investors.

In other words, it's more profitable and easier to bypass ordinary farmers and sell to the big-money crowd. Is this what the agency is doing? It seems so. Congress (as well as the courts) must get to the bottom of this and put a stop to any funny stuff.

Fine talk of family farms is unmatched by reality

Des Moines Register
DMR
6/14/87

GEORGE ANTHAN

DUANE AND JODY Kay of Hoskins, Neb., a young farm couple with a dream of making a life together on the land, represent the future of American family farming. Politicians rise regularly in the House and Senate to give flowery speeches about preserving the way of life the Kays represent.

Government officials, from President Reagan down to assistant secretaries of agriculture, and presidential candidates of all stripes, tell farm audiences that people like the Kays are what this country is all about. Let's see if reality matches the rhetoric.

The United States government recently had a chance to help the Kays by selling them some of its surplus farm land. In fact, the government was obligated by law to sell to the Kays. It didn't. It decided instead to sell the land to a local investor.

Duane Kay currently works as a hired hand in the Hoskins area. His wife has an off-farm job. They have two children.

Eugene Severenz, with the Center for Rural Affairs in Walthill, Neb., said: "The Kays represent the classic case of the beginning farm family. We're dealing here with real bread-and-butter-type beginning farmers who are bright and with their eyes open. They have penciled things out very carefully. They have been hardened by the farm crisis and are not going into things naively. They know what their cash flow has to be and they have proper, conservative financial strategies. Both have income they were going to use and they planned to borrow equipment from Duane's father. All was carefully calculated."

All except the attitude of the USDA's Farmers Home Administration, an agency with some state and local officials who are trying mightily to live up to the image of the uncaring bureaucrats in the movie "Country."

When it passed the 1985 Farm Act, Congress told FmHA that it was national policy to help people like the Kays get into farming. The law states that land taken over by FmHA from farmers who couldn't repay their loans was to be considered a public resource and that for a period of three years after acquiring the land, the agency was to seek to return it to its original farmer-owners or to some other farmers of limited means.

In Nebraska, FmHA put a 40-acre parcel up for sale. It has a house on it, the perfect kind of place for a family like the Kays to acquire and use as a base for steady expansion. The Kays submitted a bid, which turned out to be the high bid. But they didn't get the land. They would have needed an FmHA loan to finance the purchase, and the agency decided to sell the property to a local cash-ready buyer who wanted only the house. In fact, the buyer sold 31 acres to others and used the proceeds to help finance his purchase.

Another young Nebraska farm couple, Steve and Kathleen Barnes of Cody, sought to buy 1,228 acres of ranch land. Steve has been farming with his parents, and Kathleen is a nurse. They have been determined as eligible to borrow money from FmHA.

In late March, FmHA advertised that it wanted to sell the land, which is near Kilgore, Neb. Steve and Kathleen bid $64,400, but FmHA accepted a bid from a Washington, D. C.-based trustee for $83,720. The trustee represents an unnamed investor. So much for the admonition from Congress to sell this "public resource" to family farmers.

FmHA officials explain themselves with all sorts of gobbledygook. "We're just going by 7 CFR 1943.24," one might say. The reality is that the USDA is trying to sidestep the law. In many states, FmHA officials have changed the classification of much inventory land from "suitable" for limited-resource farmers to "surplus," making it eligible for sale to high bidders.

Thus, FmHA is using a technicality so that it can legally sell much of its land to other than limited-resource farmers. It's saying that land once used by family farmers as collateral for government loans now isn't suitable for sale to family farmers.

And the administration now wants to transfer some land holdings to the Farm Credit System, which can sell it quickly to anybody with ready cash.

The Kay and Barnes families have filed suit against FmHA in U.S. District Court in Nebraska, and they're being assisted by the Center for Rural Affairs. Severenz said: "These illegal sales shortchange the future of our rural communities by denying opportunities to eligible farmers . . . to become efficient family-sized operators."

These young farmers "represent a new generation" of producers and "the way in which agricultural lenders' inventory land is resold into private hands will shape the future farmland-ownership patterns," said Severenz.

It's sad indeed that this great natural resource is in the hands of people who apparently prefer a Washington trustee to young farm families.

A column of commentary by the Register's Washington Bureau

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REBUILDING FAMILY FARMS
INFORMATION ALERT 87-04

May 21, 1987

A PLAN TO RESCUE FCS AND REBUILD FAMILY FARMS

Summary

A number of FCS bailout proposals use the FCS inventory as an integral component of the bailout scheme. One of these approaches calls for the government purchase of FCS farmland inventory as a way to acheive a number of public policies:

(1) provide a cash infusion to distressed lenders (can include banks as well as FCS institutions),
(2) stabilize agricultural land values through federally sponsored, temporary warehousing and by providing land purchase credit for a new set of buyers who would otherwise not be in the market,
(3) provide land purchasing opportunities to family-size operations which have the ability to become efficient family farms,
(4) rejuvenate local, rural economies which are based on family farms,
(5) provide a unique opportunity to develop appropriate conservation practices on acquired farmland.

The farmland that has accumulated in lenders' inventories is a rare public policy opportunity. The inventories can not only play a crucial role in any bailout scheme, but they can also serve as vehicle to implement a number of other critical policy objectives besides stabilizing distressed lenders.

Policy Need

While the farmland properties acquired by agricultural lenders are a valuable asset, in most cases, management of this farmland is a burden for which lenders are ill-equipped. In addition, bank examiners and auditors do not value inventory property highly, and the existence of inventoried farmland does little to improve a distressed lender's financial assessment. In most cases, this farmland can be used to stabilize a lender only by selling it and converting it from a "dead" asset to a usable asset--cash.

Until fairly recently, agricultural lenders had been voluntarily warehousing this inventory farmland because increased sales of farmland would have a depressing effect on the value of farmland which was serving as collateral for current loans. They are now under pressure to begin selling this land.

At the same time, it is clear from the recent sale of some FmHA inventory parcels, that many farm families are ready to begin building up their operations. Land prices have reached the point where the land can be paid for by farming it. With land falling to realistic prices, the critical policy question becomes--who will have access to the financing needed to buy this newly affordable farmland? Lenders who have recently begun to sell

acquired properties are requiring high downpayments and giving discounts for cash. Beginning or rebuilding family farms operations will simply not be able to compete for this inventory land.

"The Family Farm and Agricultural Lender Rebuilding Act"

There are two models for effecting a government facilitated purchase of distressed lenders' acquired property: (1) outright government purchase with targeted resale or (2) a government facilitated financing of individuals to purchase inventory farmland direct from distressed lenders. The second model could use a device similar to FmHA's direct farm ownership loan (FO) program to provide capital to give more farmers the ability to purchase inventory property. Under this model, the cash infusion to a distressed lender would be slower and less predictable, and there would be no mechanism for warehousing the farmland.

The Center for Rural Affairs has proposed an approach (which we call "the Family Farm and Agricultural Lender Rebuilding Act") based on three steps: (1) government purchase of distressed lender farmland; (2) temporary warehousing to prevent adverse impact on land sales, and (3) a two-step, targetted resale mechanism which is modelled after Congress' scheme for the resale of FmHA's inventory farmland.

This proposal recommends that FmHA be the implementing agency. While we share many reservations about FmHA's commitment to important congressionaly policies, it is probably, in the last analysis, the most logical and efficient choice. FmHA has long-standing experience in providing farm ownership financing to efficient family-size farms which cannot get credit elsewhere, and it has a county-level delivery system. Combining the FCS inventory with FmHA's will create some efficiencies since, FmHA is, itself, the second largest holder (after the FCS) of farmland inventory and will be implementing all of the warehousing and targeted resale steps for its own inventory. Finally, FmHA is a logical choice because there is a healthy tradition of monitoring FmHA's policy implementation by both Congress and many local organizations. If this inventory warehousing plan has merit, the only other realistic choice for implementation would be the creation of a new entity with untested authority, in which case, the monitoring capacity, which is so important to protecting the integrity of public policies, would be limited. The cost of the program would be roughly the value of current farmland inventories of qualified agricultural lenders.

The Resale Plan

If FCS and other distressed lenders' inventory property were combined with FmHA's inventory, the current FmHA resale scheme would be used to resale the FCS property. This includes a three-year phase for selling farmland to qualified family-sized farms with FmHA financing. After this three-year period, farmland can be sold to otherwise ineligible buyers. Highly erodible land is subject to conservation restrictions, and farmland cannot be sold at any time if it would have an adverse effect on land values. Once in the inventory, this farmland is owned by the federal government and since no private seller is involved, FmHA financing during the three-year period does not involve a loan of funds from the government, but rather a payment to the government. The government is in the position of a contract seller and no appropriation is necessary for financing this resale.

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Big-money investors, foreigners poised to cash in on farmland

By JERRY PERKINS
Register Agriculture Writer

Iowa's richest farmland, now dirt cheap, is being snapped up by local farmers and in-town residents looking for a good investment.

But big-money investors are coveting the good Iowa soil, too, and finding it relatively easy to sidestep the state's corporate farming laws.

Already, five limited partnerships or authorized farm corporations are in the process of buying hundreds of acres because of attractive investment returns, and well-heeled speculators from as far away as Los Angeles, Europe and Japan are reported to be interested in owning a piece of Iowa's newly cheap land.

Investment Game

Among the players in the farmland investment game in Iowa: native Charles Manatt, former chairman of the Democratic National Committee and now a Washington, D.C., lawyer. He and a Los Angeles real estate developer tried to arrange a bond sale of up to $300 million to buy farmland in Iowa, Illinois and Indiana.

The growing interest of outsiders, although far from a stampede, has agricultural economists and other rural advocates concerned.

Until recently, the focus of the farm crisis has been on those being driven off the land. What would become of them and their families and the rural communities where they lived?

Now, the focus is shifting to a new drama, to the question of who will own the most productive farmland in the world.

"Our position has always been that the farm-rural crisis is, at bottom, over control of the land," said the Rev. David Ostendorf, a major figure in the Iowa Farm Unity Coalition

First of two articles

since its creation in the early days of the farm crisis.

Sale Block

Thousands of acres of fertile land are on the sale block in Iowa and surrounding farm states at prices that have plunged as much as two-thirds from their peaks a half-decade ago.

Sales haven't returned to the fever pitch of the late 1970s and early '80s, but farm real estate agents, county officials, farm lenders and others who watch the farmland market say there's no question that sales are on the rise.

Whoever the buyers are — whether farmers seeking to expand or non-farmers looking for investments — experts say one thing is sure: More and more Iowa farms will be controlled by fewer and fewer people in the years ahead, continuing the steady march toward concentration of land ownership in the United States that dates at least from World War II.

•

In 1985, when farm auction protests and cross plantings were making national headlines, Des Moines real estate magnate William Knapp saw an opportunity.

He formed an investment company to buy farmland, raising a $1 million investment pool by having 10 investors kick in $100,000 apiece. Knapp raised the money in just four days and called his group the Iowa Realty Farm Investment Co.

It now owns eight Iowa farms totaling 1,554 acres with an average size of 194 acres.

Knapp, who makes decisions for

FARMLAND
Please turn to Page 4A

REGISTER PHOTO BY BOB MODERSOHN

William Knapp, chairman of Des Moines' Iowa Realty, on one of his properties: "The family farm is gone," he says.

FARMLAND
Continued from Page One

the company, also personally owns 3[illegible] acres.

Like many non-farmers investing in Iowa farmland, Knapp has roots in agriculture. He was reared on a hard-scrabble southern Iowa farm near Allerton that the bank took from his father three separate times during the Great Depression.

All three times, the elder Knapp was able to buy the farm back.

"It was survival," Knapp recalled grimly as he squeezed a gold-colored hand exerciser in his plush West Des Moines office. "But, I might have stayed on the farm except for milking cows. It was a degradation. Every morning you had to milk, and then every night. You couldn't hardly go anyplace."

Knapp's vision of agriculture's future is as unromantic as his memories.

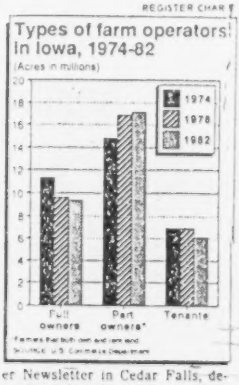
"The family farm is gone, and to try to save it is impossible," he said. "A family can't survive on 200 acres. Maybe on 2,000 acres. ... That's why I'm an advocate of corporate farming. It's too costly for a farmer to buy machinery, land, seed and fertilizer. The farmer needs a partner to buy the land and who has the money? The corporations. And, the corporations need somebody to farm it."

Such a vision sends a shudder through Ostendorf, who is also director of Prairiefire. "The gut issue in the Midwest is going to be who controls the land," he said. "We're moving toward a two-class structure in this country: the few who have much and the many who have little."

There is no clearinghouse for land sales in Iowa or the Midwest. But talks with farm real estate brokers, county recorders and assessors and others indicate that farmers remain the most active buyers these days.

Jerry Carlson, editor of Landowner

REGISTER CHART



er Newsletter in Cedar Falls, describes today's buyers as conservative farmers who resisted the temptation to buy land during the heady days of high inflation, and who now find the interest paid on their certificates of deposit too low.

Those farmers are cashing in their CDs, picking out a farm to buy and writing a check for the purchase, Carlson said.

And it's not only farmers. Farmland is rapidly becoming a favorite investment for people looking for a

safe haven for their money, or as a way to diversify their portfolios.

One such investor is Des Moines lawyer Roscoe Riemenschneider, who bought 160 acres near State Center last March.

"I wouldn't want all my money in farmland, but it should be part of an investment portfolio," Riemenschneider said. "Farmland has never given a big return on your investment, but if I can get a 6 percent return on it like I can on a certificate of deposit, then I'll be satisfied."

Farmland is a better investment than diamonds or gold, Riemenschneider added, because it combines security with some income.

"But if anybody thinks they are going to cut a fat hog by buying farmland, they're going to be disappointed," he said.

Don Judge, who heads the farm division for Mel Foster Co. in Davenport — Iowa's second-largest real estate company — said half of his inquiries have come from interests as varied as an Oklahoma wildcatter to a group of Davenport lawyers. The other half have come from farmers.

Long-term recovery in land values will rest on farm income prospects, said Neil Harl, Iowa State University economics professor, and that hinges on USDA farm payments, which have an uncertain future.

"If the $26 billion in annual farm program payments are pulled away, farmland values will be ratcheted down," he predicted.

Plenty of Investors

But even though the near-term price outlook is clouded, there appears to be no shortage of investors who now believe Iowa farmland prices have fallen enough to make a good investment.

"The Japanese and Europeans are looking at putting up capital to buy farmland," said Ronald Hofer of American Farm Trust Corp., of Scottsdale, Ariz.

Hofer, an Iowa native, recently traveled to Europe to tell investors about farmland as an investment and is going back in June to talk some more.

He also has talked to Japanese investors about buying Midwestern farmland.

Iowa law prohibits farmland ownership by "non-resident aliens," but that doesn't exclude foreigners living in this country with "resident alien status."

Robert Johnson, executive director of the International Real Estate Institute in Scottsdale, said Japanese investors already are buying farmland in some parts of the United States, although he doesn't know the locations.

It's difficult to trace Japanese investments, Johnson explained, because they buy through partnerships with American companies such as Metropolitan Life Insurance and Prudential Life Insurance.

But Johnson said Japanese are moving money out of hotels and offices and into residential property and farmland.

"They're buying the prime farmland, the best available, even though they are paying a higher price. ... I predict that they'll be looking more and more at farmland," Johnson said.

And that leads him to conclude that they are buying into Iowa farms.

"They won't be alone.

Groups Looking at Iowa

In addition to Iowa Realty's group, other investment groups are looking into Iowa farmland.

Mannatt, and his Los Angeles friend, Charles Boxenbaum, tried to package a $200 million to $300 million bond sale to buy the Federal Land Bank's 320,000 acres of acquired farmland in Iowa, Illinois and Indiana.

Boxenbaum is a real estate developer and chairman of National Partnership Investorship Corp., a wholly owned subsidiary of Coast Savings and Loan of Los Angeles, which owns and manages 40,000 apartments valued at $2 billion. He also is on the board of Mannatt's bank, the First Los Angeles Bank.

Mannatt's plan called for the partnership to acquire the Land Bank properties, and lease them back to the farm families who were losing them. Within "a reasonable period of time," he said, the farmers would be given first chance to buy their farms back.

Bonds Difficulties

However, in a separate telephone interview, Boxenbaum said the bond sale proved to be more difficult than first envisioned because of a relatively low projected annual return of 4 percent to 6 percent. The bonds would need to carry at least a 7 percent annual interest rate to make them attractive, Mannatt said.

Despite that, Boxenbaum said he has fallen in love with Iowa farmland as an investment and plans to sell shares in a limited partnership.

"Farmland has been a good alternative because it's tangible and income-producing. In the last few weeks, inflation fears have spurred interest in farmland. My idea is to come in with a smaller group and make an investment, then sit on it for three or four years," he said.

He is concerned about how he will be received, however, as an outside investor.

"Let's face it: If a bunch of Jewish guys from Beverly Hills come in with $100 million and start buying farms, they are not going to be well-received," he said. "The mere existence of this group will bump the prices up and arouse suspicions by local groups of competing farm buyers."

Limited Partnerships

Scott Davenport Farms of Kansas City, Mo., will offer three separate $1.5 million limited partnership pools, said Ralph "Mo" Trail, an account executive for B.C. Christopher in Kansas City, which is underwriting the partnerships.

Scott Davenport Farms, the general partner, will be run by David Scott, a B.C. Christopher vice president, and David Davenport, a farm manager and farm real estate sales agent.

The partnership will start buying farms when the first partnership fund hits $1 million. "That should be in a couple of months," Trail said.

Trail said the partnership is concentrating on Iowa and Missouri farms.

Interested in Iowa Land

Other partnerships interested in Iowa land include:

- Westchester Farmland I, offered by the Westchester Group Inc. of Champaign, Ill., which is marketing a number of limited partnerships, said Murray Wise, group president. The limited partnerships will have pools of $200,000 to $500,000, with a minimum investment of $5,000.

Wise hopes to be in the Iowa land market within weeks.

- LaSalle Partnerships Ltd., which purchased 160 acres in Grundy County in February 1986 for $1,250 an acre from Cedar Falls Trust & Savings.

The name isn't registered with either the Iowa Secretary of State's office or in Grundy County, but Merrill Oster's name and Cedar Falls address were listed on Grundy County property records.

"It's none of your business," said Oster, when asked who had investments with LaSalle Partnerships. He said he has a 2 percent interest.

- American Farm Trust Corp. of Scottsdale, headed by Hofer, who said he is raising $20 million for four separate limited partnerships.

Buying $1,000 Acres

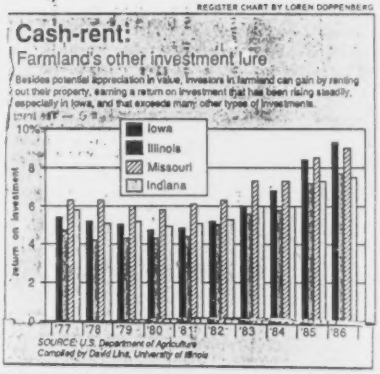
"One of the four partnerships will be closing a deal to buy $1,000 acres of acquired properties in Illinois and Indiana," Hofer said.

Hofer plans to start buying farmland in Iowa in about 30 days through his limited partnerships.

He also is traveling to Europe in mid-June to talk to a group of three West German banks about buying farmland and has had "very, very preliminary" discussions with a Japanese group in Hawaii.

NEXT SUNDAY: Grundy County, with its rich land, offers the perfect example of what's happening to Iowa farmland.

REGISTER CHART BY LOREN DOPPENBERG



Senator FOWLER. Thank you very much, Mr. Severens.

Mr. Ralph Grossi, the president of the American Farmland Trust.

STATEMENT OF RALPH GROSSI, PRESIDENT, AMERICAN FARMLAND TRUST, WASHINGTON, DC

Mr. GROSSI. Thank you, Mr. Chairman.

In light of the fact that we are short on time, and much of the background information that I included in my prepared testimony has been presented, I request I can just submit a complete copy of this at the end of the hearing.

Senator FOWLER. You certainly will.

Mr. GROSSI. As well as some documentation .

I am currently serving as president of the American Farmland Trust, a nonprofit agriculture conservation organization. I am also managing partner of a family dairy farm in northern California, a Farm Credit System borrower by way of our local Production Credit Association in Petaluma, California. And my brother and father are both borrowers from the Federal land bank.

Since 1980, the American Farmland Trust has promoted the conservation of agricultural resources and the economic conditions essential to their sustained and productive use. In the process, AFT has tried to resolve the conflicts between long-term conservation needs and the short-term economic pressures that threaten our farmland resources.

This testimony has also been endorsed by the National Audubon Society whose interest in environmentally sensitive lands now held in inventory by public and private agricultural lenders stems from its holding of over 80 sanctuaries devoted to the protection of wildlife habitat and ecologically important lands.

As you know, economic pressures within the agricultural sector of the United States have led to a record number of foreclosures in recent years. Those numbers have been well documented this morning. Suffice it to say it is now over 10 million acres that are in lender inventory in one shape or another.

The land held in inventories of agricultural lenders is not all prime farmland. In fact, some of it is environmentally sensitive and therefore inappropriate for farming. Wetlands, wildlife habitat, highly erodible land and other fragile parcels were brought into cultivation without regard for their inherent and vital importance in maintaining natural systems. Today, commodity surpluses and low prices make farming on those lands even more unnecessary and expensive for the taxpayer.

Good policies supporting conservation do not need to be costly. A recent study of the Conservation Reserve Program concluded that in addition to savings of 25 tons of top soil per acre annually, the new program is reducing total Government outlays by $600 million in the years between 1986 through 1990. Credit assistance can work in the same way .

Our proposal for assisting the Farm Credit System deals specifically with its inventory lands. We propose that the Federal Government purchase the inventory lands as of July 1, 1987, from the Farm Credit System, approximately 2.5 million acres, for cash or

commodity certificates, and transfer those lands to the Farmers Home Administration, which already has the structure in place to manage them and is accountable to the public. Or, in light of what the Administrator suggested earlier, certainly just the title could be transferred to Farmers Home, and the management be left in the hands of a system for the time being. The Department of Interior and State wildlife agencies would then have an opportunity, as indicated by the memoranda of agreement, to screen the Farmers Home Administration inventory and acquire at no cost those nonprime lands which are environmentally sensitive. Local government agencies, as well as private nonprofit organizations, should also be given an opportunity to acquire sensitive lands in return for management of the resource. This would have the effect of energizing a tremendous number of people and local well-knowledged groups in those areas into action, bringing a private source of energy to this issue. The rest can be sold in an orderly fashion, and the receipts can be returned to the Treasury. It could even be sold with some restrictions for set-aside purposes, or certainly the possibility of enrolling them in the conservation reserve is a tremendous opportunity. Those farms with a small percentage of environmentally sensitive land could be sold with easements to assure that erosion and conversion problems are permanently solved.

This approach has many advantages:

First, it is inexpensive and flexible. Instead of a bailout, the Government receives tangible assets in return for its assistance. Cash can be infused into the system at any level up to the total value of the inventory lands, which is estimated to be about $1.3 billion.

Second, the Farm Credit System is able to liquify its nonperforming real estate assets. This can help it meet short-term cash needs without relying on the bond market or incurring the costs of further borrowing. Moreover, the costs to the Farm Credit System for managing the land would be eliminated. This is extremely important for an institution that has yearly overhead costs in excess of $800 million. The protection of environmentally sensitive lands would not significantly reduce the amount of value received by Farmers Home. And even if it did, the value could be determined in a number of ways.

As indicated by Administrator Clark earlier, it seems that their appraisal of value is a bottom-line number, actual dollars returned to the Treasury. I submit to you that there are other ways to quantify the public benefit, and the protection of sensitive lands, wildlife lands, of the wetlands, and the protection of highly erosive lands is another way of quantifying the value that the taxpayer has invested in this land.

Third, there are additional cost savings to be gained by withdrawing environmentally sensitive lands from cultivation. If the sensitive lands are farmed, their marginal nature raises production costs, and thus reduces per acre returns. The commodities produced on these lands hurt all farmers by increasing supplies and lowering prices. As base acres are increased, program costs rise, and the taxpayer ultimately bears the cost anyway.

Finally, environmentally sensitive lands are of great value to the public. Recreation, relaxation, and benefits to wildlife can inspire individuals and invigorate nearby communities. Urban and rural

citizens alike will benefit. And in a nation that is predominantly urban, those benefits become significant as urban taxpayers are asked to bear a large share of the burdens of American agriculture.

Let me say that our proposal does not exclude other forms of assistance to the Farm Credit System. Loan restructuring, additional collateralization, a secondary market, and regulatory oversight are all compatible with this proposal.

The conservation community believes environmentally sensitive lands must be managed properly by agricultural lenders. As a means of helping the Farm Credit System and realizing substantial public benefits, conservation can be integrated into the Farm Credit System assistance legislation just as it was integrated in the 1985 farm bill. We are not proposing a cosmetic answer to a tough problem. It is a solution that first and foremost serves the Farm Credit System and its borrowers. The Farm Credit System will receive substantial aid, and the public will reap the benefits of a lasting conservation legacy when a small percentage of the inventory lands are out of production.

Mr. Chairman, you've heard here today many different speakers allude to the same problem in many different ways. That is, that there is a fundamental conflict between long-term resource conservation needs and short-term economic demands.

We stand ready as a group and individually among our organizations to assist you in addressing the challenge you have before you in closing that gap and reconciling that conflict.

Thank you.

[The prepared statement of Mr. Grossi and prepared testimony of the American Farmland Trust, prepared by Thomas Kuhnle, Economist, American Farmland Trust follows:]

American Farmland Trust 1920 N Street, NW Suite 400 Washington DC 20036 (202) 659-5170

TESTIMONY OF RALPH GROSSI,
PRESIDENT, AMERICAN FARMLAND TRUST
BEFORE THE SUBCOMMITTEE ON CONSERVATION AND FORESTRY,
COMMITTEE ON AGRICULTURE, U.S. SENATE
AUGUST 4, 1987

Good morning, Mr. Chairman and members of the Committee. I am Ralph Grossi, President of the American Farmland Trust, a private nonprofit agriculture conservation organization. I am also managing partner of a family dairy farm in northern California, and a Farm Credit System borrower by way of our local Production Credit Association in Petaluma, California.

I appreciate the opportunity to testify today on the question of managing the inventory lands of public and private agricultural lenders.

Since 1980, the American Farmland Trust has promoted the conservation of agricultural resources and the economic conditions essential to their sustained, productive use. In the process, AFT has tried to resolve the conflicts between long-term conservation needs and the short-term economic pressures that threaten our farmland resources.

This testimony has also been endorsed by National Audubon Society whose interest in environmentally sensitive lands now held in inventory by public and private agricultural lenders stems from its holding of over eighty sanctuaries devoted to the protection of wildlife habitat and ecologically important lands.

As you know, economic pressures within the agricul-

tural sector of the United States have led to a record number of foreclosures in recent years. The result has been ever-increasing land inventories being held by lenders. At the end of the second quarter of 1987, the Farm Credit System held nearly 2.5 million acres of land despite a well-publicized marketing program. Two months ago the Farmers Home Administration reported that 1.6 million acres of land was in its inventory. Private lenders also hold substantial amounts of land in their inventories. — Insurance companies hold about 4.4 million acres of inventory lands and independent banks have an additional 2.2 million acres. These holdings bring the total amount of inventory land obtained by foreclosure and other involuntary sales by agricultural lenders to roughly 10 million acres.

The land held in inventories of agricultural lenders is not all prime farmland. In fact, some of it is environmentally sensitive and therefore inappropriate for farming. Wetlands, wildlife habitat, highly erodible land, and other fragile parcels were brought into cultivation without regard for their inherant and vital importance in maintaining natural systems. Today, commodity surpluses and low prices make farming on these lands even more unnecessary and expensive for the taxpayer.

Good policies supporting conservation do not need to be costly. A recent study of the Conservation Reserve Program concluded that in addition to savings of twenty-five tons of soil per acre, the new program is reducing total governmental outlays by 600 million dollars in the years 1986 through

1990. Credit assistance can work in the same way.

Our proposal for assisting the Farm Credit System deals specifically with its inventory lands. We propose that the federal government buy the inventory lands as of July 1, 1987, of the Farm Credit System for cash or commodity certificates and transfer those lands to Farmers Home Administration, which already has the structure in place to manage them and is accountable to the public. The Department of Interior and state wildlife agencies would then have an opportunity to screen the FmHA inventory and acquire at no cost those lands which are environmentally sensitive. Local governmental agencies as well as private nonprofit organizations should also be given an opportunity to acquire sensitive lands at cost. The rest can be sold in an orderly fashion and the receipts can be returned to the Treasury. Those farms with a small percentage of environmentally sensitive land could be sold with easements to assure that erosion and conversion problems are permanently solved.

This approach has many advantages:

First, it is inexpensive and flexible. Instead of a "bailout," the government receives tangible assets in return for its assistance. Cash can be infused into the system at any level up to the total value of the inventory lands, which is estimated to be about 1.3 billion dollars.

Second, the Farm Credit System is able to liquify its nonperforming real estate assets. This can help it meet short-run cash needs without relying on the bond market or incurring the costs of further borrowing. Moreover the costs

to the Farm Credit System for managing the land would be eliminated. This is extremely important for an institution that has yearly overhead costs in excess of 800 million dollars. The protection of environmentally sensitive lands would not significantly reduce the amount of value received by FmHA. These lands constitute but a fraction of the total and tend to be the least valuable for agricultural production.

Third, there are additional cost savings to be gained by withdrawing environmentally sensitive lands from cultivation. If the sensitive lands are farmed, their marginal nature raises production costs and thus reduces per acre returns. The commodities produced on these lands hurt all farmers by increasing supplies and lowering prices. As base acres are increased, program costs rise.

Finally, environmentally sensitive lands are of great value to the public. Recreation, relaxation, and benefits to wildlife can inspire individuals and invigorate nearby communities. Urban and rural citizens benefit alike, and in a nation that is predominatly urban, those benefits become significant as urban taxpayers are asked bear a large share of the burdens of American agriculture.

Let me say that our proposal does not exclude other forms of assistance to the Farm Credit System. Loan restructuring, additional collateralization, a secondary market, and regulatory oversight are compatable with our proposal.

The conservation community believes environmentally sensitive lands must be managed properly by agricultural lend-

ers. As a means of helping the Farm Credit System and realizing substantial social benefits, conservation can be integrated into the FCS assistance legislation. We are not proposing a cosmetic answer to a tough problem. It is a solution that first and foremost serves the Farm Credit System and its borrowers. The Farm Credit System will receive substantial aid and the public will reap the benefits of a lasting conservation legacy when a small percentage of the inventory lands are taken out of production.

Thank You.

American Farmland Trust 1920 N Street, NW Suite 400 Washington DC 20036 (202) 659-5170

TESTIMONY OF THE AMERICAN FARMLAND TRUST

SUBMITTED TO THE SUBCOMMITTEE ON CONSERVATION AND FORESTRY,

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,

UNITED STATES SENATE

Concerning

INVENTORY LANDS HELD BY AGRICULTURAL LENDERS

Prepared by:

Thomas Kuhnle

Economist
American Farmland Trust

INTRODUCTION

The American Farmland Trust is a national, private nonprofit organization dedicated to protecting America's best farmland. Since 1980, AFT has promoted the conservation of agricultural resources and the economic conditions essential to their sustained, productive use. In the process, AFT has tried to resolve the conflicts between long-term conservation and the short-term economic pressures that threaten our farmland resources.

The American Farmland Trust looks at resource conservation issues through the eyes of agriculture. It seeks to integrate conservation into farm programs so they become part of the fabric of agricultural policy and contribute to the overall health of the industry. We believe it is not enough to tack-on conservation to legislation. Truly effective conservation must be the result of programs that give incentives to promote wise stewardship of the land without cumbersome bureaucratic structures.

The Farm Credit System is suffering serious financial losses due to the poor performance of the United States agricultural economy. In 1985 the FCS lost 2.7 billion dollars, the largest one-year loss of any American financial institution. The loss in 1986 was 1.9 billion dollars. To compensate for their losses, FCS member banks have been forced to raise their interest rates thus causing solvent farmers to bear the costs of those unable to pay principal and interest when due. Land inventories gained through foreclosure and other involuntary sales reached 2,459,000 acres at the end of the first quarter in 1987. This has contributed to the operating expenses of the system which total over 800 million dollars per year.

After two years of diminishing capital reserves and insufficient legislative relief, the problems of the FCS have reached a crisis. In the short run a substantial aid package is needed from the government. In the long run the solution to the Farm Credit System's woes will be a healthy farm economy.

PREVIOUS CONSERVATION LEGISLATION

The American Farmland Trust played an important role in the passage of the conservation title (title XII) of the Food Security Act of 1985. The conservation provisions sought to reduce intensive row cropping on marginal lands. AFT and other conservation groups were especially concerned with "fencerow-to-fencerow" planting in the seventies that indiscriminately developed highly erodible lands and wetlands into farmland

in the late seventies and early eighties.

Until 1985, conservation and commodity programs often worked at cross purposes with each other. Federal commodity, loan, and crop insurance benefits encouraged production of all crops regardless of the type of land they were planted in. Farmers received subsidies for the production of erosive crops on erosive lands and at the same time received subsidies to reduce the level of erosion that resulted. What is remarkable about the conservation provisions in the Food Security Act of 1985 is the integration of conservation and commodity programs. The new conservation provisions have the purpose of reducing environmental damages associated with cropland use and taking marginal lands out of production. Commodity policies also aim to reduce planted acreage. The result is consistency across agricultural policies.

The conservation title has wide appeal. Environmentalists praise the long run protection of fragile lands. Farmers see conservation as a means to reduce surplus planted acreage and to strengthen commodity prices. On Capitol Hill the story is much the same. Rural Congressmen have responded to the promise of higher farm income. Their urban counterparts have supported the creation of a conservation legacy that will accompany a responsible and sustainable agricultural sector.

The conservation title of the Food Security Act of 1985 has three important subtitles: Highly Erodible Land, Wetlands Conservation, and the Conservation Reserve Program. The Highly Erodible Land subtitle contains sodbuster and compliance provisions. The sodbuster provisions allows the Department of Agriculture to deny specific farm program benefits to farmers who convert highly erodible land into cropland without first implementing an approved conservation plan. Any cropland not cultivated at least two out of the last five years is subject to the sodbuster provision. The conservation compliance provision denies program benefits to farmers who do not implement an approved conservation plan by 1990 on highly erodible land now in production.

The regulations for implementing the Highly Erodible Land subtitle define land with an erodibility index (EI) value of eight or greater as highly erodible. Approximately 117.9 million acres qualify under this criteria. However, only a third of the soil in a particular field or fifty acres, whichever is less, must have an EI of eight or greater to be considered highly erodible in this subtitle, so the number of acres of land affected is somewhat greater than 117.9 million acres. The states with the highest number of highly erodible acres are: Texas (13.9 million acres), Kansas

(10.6 million acres), Montana (9.6 million acres), and Iowa (8.2 million acres).

The Wetlands Conservation subtitle allows the Department of Agriculture to deny all farm program benefits to any person who produces an agricultural commodity on converted wetlands. Exemptions are granted if the conversion was commenced before the enactment of the Food Security Act of 1985, if the wetlands were created for purposes related to agriculture, or if the production was made possible by a drought or similar natural condition. The Soil Conservation Service estimates that about 5.2 million acres of wetlands have a medium or high potential for conversion to cropland. The swampbuster provisions now protect that land from agricultural production by farmers who wish to receive the benefits of federal farm programs.

The most significant program established by the Food Security Act of 1985 is the Conservation Reserve Program. The CRP elegantly serves the objectives of both conservation and commodity programs. Annual rental payments are given to farmers who pledge to set their highly erodible land aside for ten to fifteen years. Additional payments are made in the first year to help farmers defray the costs of establishing ground cover and other conservation measures. By 1990 between forty and forty-five million acres are scheduled to be enrolled in the reserve.

The objective of the CRP is to conserve highly erodible soils by providing incentives to farmers to plant vegetative cover instead of erosive row crops. The benefits of reducing erosion include: reducing sedimentation, improving water quality, creating better habitat for fish and game, and creating an agricultural base that is perpetually sustainable. Eventually the objectives of the CRP could expand beyond the main priority of protecting highly erodible land to curbing production of surplus commodities and providing income support to farmers.

Highly erodible land is defined in respect to the CRP as land with an erodibility index value of eight or greater or land which is eroding at a rate greater than three times the soil loss tolerance level. (3T) Under these criteria, eighty-three million acres of land are eligible for the reserve. Other restrictions limit enrollment. Only one-quarter of the cropland in a county can enter the reserve unless special permission has been granted by the Secretary of Agriculture. The land must have been planted to program crops two of the past five years and ownership cannot have changed hands during the past three years unless it occurred before the Food Security Act was signed into law. However, because only two-thirds of a field must be highly erodible for eligibility, total land eligible remains at

the 83 million acre level.

It is too early to judge how well the Conservation Reserve Program has accomplished its objectives, but after the fourth sign-up when nearly 19 million acres have been enrolled, there are some very encouraging trends. Not only has the CRP dramatically reduced soil erosion, it has also reduced the number of acres planted with program crops thus reducing base acreage, deficiency payments, and the overall cost of agricultural programs in the U.S.

Data released by the United States Department of Agriculture shows annual erosion on reserve land dropped from 27.3 tons per acre before entering the reserve, to 1.9 tons per acre afterwards. This 25 tons per acre reduction is larger than any erosion control achieved by annual set-aside and diversion programs. For example, the payment-in-kind program in 1983 reduced erosion by an average of only 1.9 tons per acre.

The CRP is also reducing government budgetary outlays for agricultural programs. Preventing agricultural production on reserve lands reduces the amount of land eligible for commodity program benefits (base area). According to a study prepared by Economic Perspectives Inc., 12.1 million acres of base area has been eliminated due solely to CRP enrollment. When this is translated to actual reductions in crop supplies, it is estimated the CRP has reduced the production of wheat by 180 million bushels, feed grains by 470 million bushels, and cotton by 560,000 bales.

Less commodity production raises prices. By 1990, wheat prices are projected to be 21 cents per bushel higher than without the reserve; corn prices 12 center per bushel higher; and cotton prices 5 cents per pound higher. Higher prices, together with a reduction in acreage eligible for program benefits, should reduce government outlays on farm price and income support programs by 8.8 billion dollars in the 1986-90 period. Government rental payments and cost sharing for the CRP are projected to be 8.2 billion dollars in the same period, resulting in a net budget savings of 600 million dollars from 1986 to 1990. In the following years the savings will be even larger since cost-sharing for establishing ground cover and other conservation measures is only paid in the first year a farmer enters the CRP.

Farm income is projected to increase. Higher prices and lower production expenses are projected to be higher than the reduction in sales volume and government payments to farmers. By 1990 annual net farm income should be 1 billion dollars higher because of the reserve.

Monetary projections for an enlarged Conservation Reserve Program are equally rosy. Even tighter supplies will cause greater price responses reducing

government costs by an additional 600 million dollars. Total savings will then be 1.2 billion dollars in the years 1986-1990. Farm income will also be enhanced. However, the CRP should not be increased in size by creating more lenient eligibility criteria. The most highly erodible land should enter the reserve. When most of this land has been enrolled, then the program can expand without sacrificing its original intent to protect the most erosive soils from erosive cropping.

The first four sign-ups have created a reserve of 18.8 million acres. The size of the reserve should further increase when conservation compliance is required in 1990. This is not an accident. Due to its lower yield per acre, bidding highly erodible land into the CRP should be more attractive than implementing an approved conservation system on a farm. In other words, government policy will prod farmers to put erosive land into the reserve where they will receive annual rental payments and the land will be protected.

CONSERVATION AND CREDIT ASSISTANCE LEGISLATION

Economic pressures within the agricultural sector of the United States have led to a record number of foreclosures in recent years. The result has been ever increasing land inventories being held by lenders. At the end of the second quarter of 1987, the Farm Credit System held nearly 2.5 million acres of land despite a well-publicized marketing program. Two months ago the Farmers Home Administration reported that 1.6 million acres of land was in its inventory. Insurance companies hold about 4.1 million acres of inventory land and independent banks have an additional 2.2 million acres. These holdings bring the total amount of inventory land obtained by foreclosure and other involuntary sales by agricultural lenders to over 10 million acres.

The land held in inventories of agricultural lenders is not all prime farmland. In fact, some of it is environmentally sensitive and therefore inappropriate for farming. Wetlands, wildlife habitat, highly erodible land, and other fragile parcels were brought into cultivation without regard for their inherent and vital importance in maintaining natural systems. Today, commodity surpluses and low prices make farming on these lands even more unnecessary and expensive for the taxpayer.

We have researched three policy proposals that integrate Farm Credit System assistance with conservation. Simultaneously they achieve several objectives: financial relief for troubled farmer-borrowers, conservation of important natural resources, and important

reforms for FCS. Our first proposal looks specifically with its inventory lands. We propose that the federal government purchase the inventory lands as of July 1, 1987, from the Farm Credit System for cash or commodity certificates and transfer those lands to Farmers Home Administration, which already has the structure in place to manage them and is accountable to the public. The Department of Interior and state wildlife agencies should then have an opportunity to screen the FmHA inventory and acquire at no cost those non-prime lands which are environmentally sensitive. Local governmental agencies as well as private nonprofit organizations should also be given an opportunity to acquire sensitive lands in return for management of the resource. The rest can be sold in an orderly fashion and the receipts can be returned to the Treasury. Those farms with a small percentage of environmentally sensitive land could be sold with easements to assure that erosion and conversion problems are permanently solved.

This approach has many advantages:

First, it is inexpensive and flexible. Instead of a "bailout," the government receives tangible assets in return for its assistance. Cash can be infused into the system at any level up to the total value of the inventory lands, which is estimated to be about 1.3 billion dollars.

Second, the Farm Credit System is able to liquefy its nonperforming real estate assets. This can help it meet short run cash needs without relying on the bond market or incurring the costs of further borrowing. Moreover the costs to the Farm Credit System for managing the land would be eliminated. This is extremely important for an institution that has yearly operating expenses in excess of 800 million dollars. The protection of environmentally sensitive lands would not significantly reduce the amount of value received by FmHA. These lands constitute but a fraction of the total and tend to be the least valuable for agricultural production.

Third, there are additional cost savings to be gained by withdrawing environmentally sensitive lands from cultivation. If the sensitive lands are farmed, their marginal nature raises production costs and thus reduces per acre returns. The commodities produced on these lands hurt all farmers by increasing supplies and lowering prices. As base acres are increased, program costs rise and the taxpayer ultimately bears the cost anyway.

Finally, environmentally sensitive lands are of great value to the public. Recreation, relaxation, and benefits to wildlife can inspire individuals and invigorate nearby communities. Urban and rural citizens benefit alike, and in a nation that is predominately

urban, those benefits become significant as urban taxpayers are asked bear a large share of the burdens of American agriculture.

Let me say that this proposal does not exclude other forms of assistance to the Farm Credit System. Loan restructuring, additional collateralization, a secondary market, and regulatory oversight are compatible with our proposal. Of course this proposal would be more effective with modifications to the Farmers Home Administration that increase its ability to fulfill its original purpose of making farming opportunities available to efficient beginning and modest-sized operations.

The conservation community believes environmentally sensitive lands must be managed properly by agricultural lenders. As a means of helping the Farm Credit System and realizing substantial social benefits, conservation can be integrated into the FCS assistance legislation just as it was integrated into the 1985 Food Security Act. We are not proposing a cosmetic answer to a tough problem. It is a solution that first and foremost serves the Farm Credit System and its borrowers. The Farm Credit System will receive substantial aid and the public will reap the benefits of a lasting conservation legacy when a small percentage of the inventory lands are taken out of production.

Granting the authority to Farmers Home Administration to transfer environmentally sensitive lands to federal and state land management agencies will help solve the problem of inappropriate cultivation on its fragile inventory lands. However, another serious problem looms ahead. If after 1990 farm program benefits and participation rates decline as anticipated, there will be fewer incentives for farmers to abide by sodbuster, swampbuster, and conservation compliance. Environmentally sensitive lands will be threatened with cultivation unless some controls are placed on agricultural lenders who fund expansion.

Under present law, Farmers Home Administration borrowers must file forms from the Soil Conservation Service and the Agricultural Stabilization and Conservation Service indicating that new loans will not be used to develop highly erodible lands or wetlands. By 1990 these forms will also indicate that the borrower is abiding by conservation compliance.

Bringing policy consistency to all lenders who receive government assistance, either in the form of a guaranteed secondary market for agricultural loans or substantial direct federal assistance, is desirable. Requiring documentation to show conservation policies have been observed is the best way to prevent large amounts of marginal lands from being developed in the future. Not only does it "level the playing field"

across all beneficiaries of governmental lender support, it also protects the substantial government investment in conservation made through the Conservation Reserve and other conservation policies. The large amount of highly erodible land in the inventories of private lenders suggests that previous lending policies did not take into account the sensitivity of the land or the governmental policies promoting its protection.

No new bureaucratic structures would need to be created nor would there be any extra costs. At present over ninety percent of the farmers in the United States are enrolled in farm programs. To receive those benefits the very same ASCS and SCS forms must be filed for FCS borrowers and those borrowers who are given loans from lenders participating in the secondary market.

To the extent that direct federal assistance will be given to the Farm Credit System and indirect federal assistance will be granted to independent banks and insurance companies in the form of a federally backed secondary market for agricultural loans, the American Farmland Trust supports the proposal that those entities follow the same conservation requirements for their future lending that FmHA currently follows. It brings consistency to the lending arena and promotes long term protection of environmentally sensitive lands that should not be cultivated.

Finally, as a result of foreclosures and other involuntary sales by their owners, agricultural lenders hold substantial amounts of highly erodible land in their inventories. For example, the Farm Credit System holds nearly 400,000 acres of highly erodible land in inventory. Under current rules, most of the highly erodible land in inventory cannot be enrolled in the CRP because its ownership has changed hands within three years. The original intent of this eligibility requirement was to prevent speculation on highly erodible lands eligible for the reserve. Furthermore, each lender is treated as a single entity under ASCS rules. In most cases lenders would reach the 50,000 dollar CRP payment limit when only a fraction of their land was enrolled.

Federal loan restructuring programs and local efforts to help farmers regain ownership of their land creates a situation where land cannot enter the CRP due to the three year rule. In this case, a simple waiver of the three-year rule would enable local qualified farmers to purchase land from the inventory of an agricultural lender and receive CRP payments for their highly erodible land.

The annual CRP payments would help farmers become viable. They will receive income from land that is otherwise not suitable for intensive agricultural

practices. Agricultural lenders would see their highly erodible lands held in inventory rise in value as the stream of annual payments is capitalized into the price of the land. Moreover, the intent of the three-year rule would not be broken: speculation would still be discouraged because only local qualified farmers would be eligible for the waiver.

A separate CRP for agricultural lenders is unnecessary. The CRP was set up to help farmers, not large lenders. Lenders, however, benefit from the current conservation reserve program. The CRP has contributed to halting the downward slide in farm prices, thus maintaining the value of the lenders' inventory. The annual payments have helped farmers remain viable, and solvent farmers are better credit customers. Finally, the complications in implementing a separate CRP should not be forgotten. Inflexible bid prices, problems with transferring title from land in the reserve, and enormous single-entity payments all threaten such a program. On the other hand, waiving the three-year rule for local qualified farmers who buy land from inventory lands helps all lenders without encroaching on the spirit of the original objectives of the reserve.

These conservation proposals within the framework of Farm Credit Assistance legislation are not extraneous amendments serving the sole interests of the conservation community. It has been shown time and time again that effective agricultural conservation must be integrated into agricultural policy. In 1985 the conservation reserve program demonstrated that commodity programs and conservation can work together to solve the industry-wide problems of income deficiencies and abundant supplies. The result has been higher commodity prices, lower government outlays, and preservation of our nation's topsoil. This year, FCS assistance offers the same opportunity. Setting aside environmentally sensitive lands held in the inventory of FmHA, placing long-term protection on marginal lands by ensuring lending does not contribute to their development, and by letting local qualified farmers enter the reserve after they have regained highly erodible lands from inventory promotes conservation and helps borrowers and lenders return to financial strength.

Senator FOWLER. Thank you.

If you agree with Mr. Severens' assessment of the Farmers Home track record—I am not asking you to do so—but if you do, then what makes you think they could manage an additional 2 million acres even if you had the Administrator enthusiastically wanting to do it?

Mr. GROSSI. Well, we're trying to work with the best of a bad situation. And the system has the infrastructure, has people in the field, the Farmers Home Administration does, to address these issues, to handle the land, the inventory.

We have the public policies in place and direction to Farmers Home, even though we would suggest that this also is an opportunity to give some new direction to Farmers Home Administration in how land is redistributed from their inventories.

And so, in addition to rolling this land into their inventory or putting it under their management, we are prepared to suggest some changes at Farmers Home that would give them a little more direction in how to redistribute this land.

Senator FOWLER. Thank you.

Mr. Cook, last but not least.

STATEMENT OF KENNETH A. COOK, SENIOR ASSOCIATE, THE CONSERVATION FOUNDATION, WASHINGTON, DC

Mr. COOK. Thank you, Senator.

If I may submit my prepared testimony for the record, I would appreciate that chance. And I'll make it very brief.

If there is one point in my testimony I hope to leave you with today, it's the figure of $10.4 billion that has in effect already been invested in the Conservation Reserve Program. If we don't sign another contract by 1997, we will have paid $10.4 billion in rental payments, cost sharing and the corn bonus that was offered the last time, a very large public investment.

If Congress enacts the legislation—very good legislation I think—that Senator Nunn has introduced, and you and others have cosponsored, by the year 2000 we will have invested at least $31 billion in rental payments alone to set aside highly erodible lands and other lands, for a conservation reserve of 65 million acres.

I am glad I don't have much time today because I'm not myself. I'm overwhelmed by the passion the bankers and the insurance companies have shown today for conservation. I'm swept away by it. I think that their economic interest in the Conservation Reserve Program is not surprising, but like anyone caught up in passion, I do have thoughts as to whether they will love us in the morning.

My question in particular is, why do FCS, banks, and insurance companies oppose any kind of conservation restrictions whatsoever on their lending? In Georgia, where 49 percent of the nonreal estate debt is held by the Farmers Home Administration, many farmers face conservation restrictions under the Food Security Act of 1985, and 20 percent of the nonreal estate debt nationwide falls under those restrictions.

Will FCS, banks, and insurance companies loan money to plow up Conservation Reserve Program land when those contracts expire? Will they lend money to farmers to do that? Will they pro-

vide additional funds if farmers decide to keep that land intact? Will they lend money if there are no commodity programs in effect, and there's no Sodbuster in effect? Will they lend money to plow up other highly erodible land that's protected if you're borrowing from Farmers Home Administration, the lender of last resort, but will have no protection whatsoever if you borrow from the Farm Credit System, or from the banks and insurance companies that are asking Congress to guarantee a multibillion dollar secondary market?

The investment in the Conservation Reserve Program is such that I am concerned about what will happen to it when these contracts expire. We are in our second Conservation Reserve Program now. There was one in the sixties. And at its peak, there were 28 million acres enrolled in it. It wasn't targeted to highly erodible land, but still when the 1970's came along and commodity programs were not in effect, when times were good, that land went under the plow. And as a result of that, we have the Conservation Reserve Program now. We have record commodity program outlays, we have farm bankruptcies, we have the Farm Credit System asking for $6 billion to shore up the problems that largely came about as a result of their lending policies in the seventies.

So my concern is that, in looking at the whole picture of the impact of lending on conservation policy, we focus not on just the inventory lands that's an important but small part of the overall problem, but look at the problem in general. And in that context, I have laid out a series of ideas in my prepared testimony that I will be happy to talk with you or your staff about at any time you see fit.

Thank you.

[The prepared statement of Mr. Cook follows:]

Statement of Kenneth A. Cook

Senior Associate, The Conservation Foundation

Before the Subcommittee on Conservation and Forestry

Committee on Agriculture, Nutrition, and Forestry

U.S. Senate

August 4, 1987

Mr. Chairman, distinguished members of the subcommittee, thank you for the invitation to appear here today. Tens of thousands of American farmers and a great many agricultural lenders face critical financial problems today, problems deserving priority attention from the Congress. As a conservationist and environmentalist, I am concerned about threats to the economic viability of farmers and farm lenders, because in the long run a healthy farm economy is the best guarantor of resource conservation and environmental protection. Many farmers and lenders need assistance now to overcome problems that can be traced to overexpansion of agriculture in the 1970s. With proper assistance, farm borrowers and bankers will be able to realize a fair return on their investments once again.

I would like to begin my testimony today by discussing a very large investment taxpayers have made in recent years; the threats I see to the integrity of that investment; and policy options Congress could consider in the context of credit assistance legislation to ensure this public investment earns a fair return.

By the end of fiscal year 1997, contracts will expire on at least 18.5 million acres of highly erodible land currently enrolled in the Conservation Reserve Program. (1) Over 100,000 farmers holding those contracts will have received a total of $9.16 billion in annual rental payments from the Treasury. Counting cost share and bonus payments, gross costs for accepted contracts would total $10.4 billion. (2) Soil erosion will have been reduced by an estimated 400 million tons each year of that 10 period. (3)

What will happen to that land ten years from now? What will happen to this $9 billion investment the public has made to help farmers and protect natural resources?

For that matter, what will happen if all 45 million acres authorized for the CRP are enrolled by 1990? What will taxpayers have to show for the $21.6 billion in rental payments for CRP land they will have made by the year 2000? (4)

If history is any guide, within a few seasons most of that land could very easily be returned to cultivation with few or no conservation practices in place; erosion rates would be as high as ever.

Why? At present, the principal disincentive that discourages abuse of such land is the potential loss of commodity program benefits under the sodbuster policy. If commodity programs are not in effect, or if farmer participation in them is low--as it was for most of the 1970s and the early 1980s--most of this land will not be protected by sodbuster.

Under conditions of even moderately tight world supplies for major crops, most of this land would almost certainly be reconverted to cultivated crops. If grain supplies were tight, the reconversion could be extremely rapid. Such was the fate in the early 1970s of much of the land routinely set aside during the 1960s, including land enrolled in the first Conservation Reserve Program, an initiative established by the Soil Bank Act

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which spanned the years 1956-1972. At its peak in 1960, 28.7 million acres were under CRP contract. (4)

One important difference is that the current CRP targets highly erodible cropland--the most erodible land in the country--whereas its predecessor did not. What they have in common is no guarantee that conservation practices will be followed once the contracts expire. Erosion rates exceeding 25 tons per acre per year will be common once again on land now in the CRP if routine cultivation practices are used.

Why should the fate of Conservation Reserve land be of concern to us here today, as we consider credit and conservation problems facing American agriculture?

Because direct connections exist between the lending practices of the farm financial community, and environmental quality and resource conservation.

Fortunately, conservation and environmental quality goals are no longer being pursued separately from the goal of assisting farmers. In the past, USDA farm programs, loans made by the Farmers Home Administration (FmHA), and provisions of the federal income tax code, all provided powerful economic incentives for expansion of agriculture, and in turn, the abuse of fragile soils and destruction of wetlands. The conservation provisions of the 1985 Food Security Act and the 1986 Tax Reform Act were important steps toward assuring that these government programs and policies will not underwrite resource degradation in the future.

However, no such protective policies have been broadly adopted by banks, insurance companies, Federal Land Banks, and Production Credit Associations, which account for the majority of farm lending. As the subcommittee and Congress consider ways to resolve the credit crisis, it is important to consider the linkages between assistance to farmers and agricultural lenders, and conservation of natural resources.

The agricultural credit mistakes of the 1970s--overexpansion of agricultural capacity, excessive leveraging based on assumptions of continued rapid escalation of land values--were also environmental mistakes.

Credit policy is, by its very nature, environmental policy.

In the past, it has been bad environmental policy.

In the context of farm credit assistance legislation now being considered by Congress, it is important to ask some obvious questions about the effects agricultural lending may have on the environment in the near future:

--Ten years from now, if commodity programs are of modest scale and sodbuster disincentives are not in place, will the Farm Credit System, insurance companies, and banks make loans to farmers, the proceeds of which will result in the cultivation of millions of Conservation Reserve acres without the slightest concern for soil conservation?

If the private segment of the farm financial community makes no change in its current policies for review of ownership and operating loans, what will the public have to show for:

--more than $1.04 billion in CRP payments in Iowa;
--more than $907 million invested in Texas;
--a $798 million CRP rental investment in Minnesota;
--investments of over $580 million in Missouri and Colorado;
--investments of over $130 million in Georgia, Alabama, Tennessee?

Will widespread cultivation of the CRP acres result, after just a few years, in another round of crop surpluses, another round of depressed commodity prices and farmer income, another record-setting round of commodity program outlays; will we see a third Conservation Reserve Program, like those of the 1960s and the 1980s, and perhaps another round of farm credit assistance? In the absence of commodity programs, will FCS entities, banks, and insurance companies make loans that will result in the cultivation--with no conservation measures--of fragile, nonreserve lands that are now in grass or trees? Some 224 million acres of such land with potential for cropping await cultivation.

Or what about the 118 million acres of highly erodible land already in cultivation? Will lenders provide credit that will perpetuate cultivation of those lands in the future, without regard to sound conservation? Will the farm credit community make yet more loans to drain and crop the nation's 90 million acres of wetlands, perhaps the most important wildlife habitat left in North America?

More to the point: will loans that result in resource damage be made with no restrictions by Farm Credit System entities after Congress has provided assistance this year in the sum of $5 billion, or $6 billion--or more? Will resource-degrading loans be made by banks and life insurance companies after they have recieved a federal guarantee for a multi-billion dollar secondary market for farm real estate--a market that will significantly increase their "liquidity" and their share of farm lending?

The Economic and Environmental Legacies of the 1970s

During the 1970s, agricultural production grew, largely through expansion of cropped area, to levels that only a continuously bullish international market could absorb. Millions of acres of highly erodible land and ecologically valuable wetlands were converted to crop production. Land that had been protected for a decade under the Soil Bank--at considerable public expense--was put to the plow. Fence rows, terraces, windbreaks were destroyed to expand fields and expedite planting and harvesting.

In the Sand Hills of Nebraska, tens of thousands of erodible acres sprouted center pivot irrigation rigs. Many of those rigs are now idle, many thousands of acres are in foreclosure, yet severe damage has been done to the land.

In the Green Hills of northern Missouri, my home state, thin-soiled cattle pastures gave way to corn and soybeans planted often with no conservation measures. That agricultural region remains extremely depressed today; a great many farms have been foreclosed, land values have plummeted, the livestock sector has atrophied, erosion rates commonly exceed 30 tons per acre per

year, and topsoil depths are less than 6 inches. Almost one million acres in Missouri are enrolled in the Conservation Reserve, the majority in the Green Hills.

Along the Mississippi bottomlands of Arkansas, tens of thousands of acres hardwood forest--among the most valuable wildlife habitat left in this country--were cleared to make way for soybeans. Since then soybean yields have declined on many of those fields as organic matter levels have dropped and soil tilth has deteriorated. The soybean market meanwhile has softened to such a degree that it has prompted proposals for a marketing loan program for producers of that crop.

This is an abbreviated version of the extensive environmental changes wrought on the agricultural landscape by the developments of the 1970s. The legacy of those changes through most of the 1980s has been costly and chronic surpluses of corn, wheat, and other commodities. Research conducted last year by the Conservation Foundation depicted the magnitude of that surplus in terms other than the familiar budget outlays, price declines, and stockpiled bushels. According to our analysis, some 7.3 billion pounds of fertilizer and 110 million pounds of pesticide would have been required to produce just the surplus portion of last year's ending stocks of wheat and corn (surplus stocks are defined as in excess of levels that trigger supply controls under the 1985 FSA.) (6)

FmHA's Conservation Requirements Under the 1985 FSA

The sodbuster, swampbuster, and conservation compliance polices enacted under the 1985 Food Security Act were designed to make sure federal assistance to agriculture does not subsidize farming practices that degrade natural resources. Those provisions are widely considered among the most successful and important features of the 1985 farm bill.

Under the Food Security Act, the Farmers Home Administration (FmHA) requires borrowers applying for new loans to comply with sodbuster, swampbuster, and conservation compliance as a condition of eligibility for ownership and operating loans, or loan guarantees.

Under regulations soon to be finalized, prior to receiving a new FmHA loan a borrower must present a completed ASCS form (number 1026) and a completed SCS form (CPA 26) indicating any highly erodible land or wetlands on his or her farm, and any conservation planning requirements as set forth under Title 12 of the Food Security Act. This process makes it very clear to borrowers before they receive the loan that they must comply with the conservation requirements of the FSA. Because commodity programs are almost universally subscribed to these days, many borrowers are already completing these forms and plans in order to retain their eligibility for USDA commodity programs

Because FmHA, technically the lender of last resort in agriculture, is alone among farm financial institutions in implementing such policies, FmHA borrowers play by a much stricter set of environmental rules than do other borrowers. The distribution of FmHA lending among states is such that some--southern states in particular--are being held to higher standards

of environmental accountability than others. For example, in 1985 FmHA loans nationwide accounted for just over 20 percent of total nonreal estate farm debt (excluding CCC lending); in Georgia FmHA held 48 percent of that debt, in Alabama 32 percent, in Mississippi 57 percent, in Louisiana 50 percent, and in Arkansas 40 percent. (7)

For the next few years the economic benefits offered under USDA commodity programs will provide considerable incentive for farmers to comply with the conservation provisions of the Food Security Act. If, as all of us hope, the farm economy improves, however, those incentives will not be as strong in subsequent years because commodity program benefits and program participation will decrease.

By contrast, ownership and operating loans from the farm credit system will always be a part of agriculture. Applying conservation requirements to those loans would result in a consistent and enduring conservation policy.

Rationale for Environmentally Consistent Credit Policies

With regard to conservation and credit policies, to employ an oft-heard phrase in the current farm credit debate, we do not now have "a level playing field" within states or among them.

Farm credit assistance legislation offers an opportunity to establish a consistent set of conservation policies for the majority of farm lending. The Farm Credit System entities could require that their new loans comply with sodbuster, swampbuster, and conservation compliance polices as a condition of receiveing a multibillion dollar assistance package Congress is likely to authorize to bolster the FCS and its borrower-owners over the next few year. Similarly, conservation requirements could also be required of borrowers whose lending institutions participate in a federally guaranteed secondary market for farm real estate loans. In both instances, the lending institutions will remain private after they have received direct or indirect support from the federal government.

In the case of FCS, estimates of the federal investment range as high as $6 billion. While details are not yet clear, it is generally accepted that Congress will attach "strings" to the credit assistance package that will directly affect the way FCS entities do business. Provisions requiring FCS entities to play by the same conservation rules as FmHA could be added to that package.

It is generally argued that a federal guarantee is required to establish a secondary market for farm real estate. A report by the American Council of Life Insurance anticipates that a secondary market could expand to $20 billion or more over 10 years, would reduce the FCS share of the ownership and operating loan markets, would significantly enhance asset values (as much as $80 billion) for those who hold farm assets, would make credit available to many farmers on more favorable terms, would provide lenders with enhanced "liquidity", and would boost lender profitability. (8) If these arguments are accepted at their face value, clearly a secondary market could become a major factor in agricultural finance, providing benefits to a large number of

lenders and farmers. Conservation requirements on all new loans could be among the requirements loans originators would have to meet to participate in this new, federally guaranteed enterprise.

Adaptation of FmHA Rules to FCS and the Secondary Market

Adapting the FSA's conservation requirements to credit legislation would not enlarge the number of acres or the number of farmers affected under proposed regulations, because most farmers are already affected as a result of high participation rates in USDA commodity, crop insurance, grain storage, and farm loan programs. Nor would these requirements significantly increase demands on the USDA bureaucray above the already high levels anticipated through 1990 as a result of the FSA conservation provisions. Overhead costs to lenders would also be insignificant because conservation planning and site assessment work would be done primarily by SCS and ASCS, as it is for FmHA under the 1985 farm bill. Adoption of FSA conservation requirements by other lenders would extend the use and value of hundreds of thousands of staff years already committed to FSA implementation. And this extension of FSA conservation reforms would significantly enhance protection of resources in years when commodity programs are not in operation.

The procedure for implementing these requirements would be relatively straightforward, identical essentially to the one now being instituted for all new Farmers Home Administration ownership and operating loans and loan guarantees. In applying for a loan, a borrower would be required to present the loan officer with the same forms now being used for implementing the FSA. As in the case of FmHA procedures, this step would allow the farmer and the lender to have clear understanding of conservation requirements prior to issuance of the loan. Enforcement of conservation requirements would be the primary responsibility of SCS and ASCS field personnel, who would report infractions to lenders in annual loan reviews.

Costs To Lenders, Farmers, and Government

The cost of conservation measures that would be required under this option is not large relative to the total farm lending activity of the entities involved. The major costs would be associated with conservation compliance. However, according to USDA, on over 60% of the 60 million acres where conservation measures will be needed to meet a "2-T" standard, the compliance cost will be less than $15 per acre per year. Costs would be considerably higher on about 23 million acres of land currently in crop production, even if the "2-T" standard is in effect.(9) It is very important to note, however, that full implementation of the Conservation Reserve Program would bring enrollment to between 40 and 45 million acres by 1989. Ideally, the majority of the lands with extremely costly conservation problems will be enrolled in the Conservation Reserve Program by the time conservation compliance takes effect in 1990.

Conclusions

Lending policies of FCS, insurance companies, and private banks, played a major role in creating the closely interrelated problems

of overproduction, and resource and environmental damage witnessed over the past 15 years.

Development of a consistent conservation policy, which embraces the Farm Credit System, banks, and insurance companies in return for credit assistance, would be an environmental accomplishment on par with Title XII of the Food Security Act of 1985, and the conservation provisions of the Tax Reform Act of 1986.

Footnotes

(1) The author is indebted to Justin Ward of the Natural Resources Defense Council for his insight about the vulnerability CRP lands beyond the life of CRP contracts, and the relevance of this problem to the debate over credit assistance.

(2) Gross annual cost for rental payments on CRP lands accepted for the first through fourth sign-ups is estimated at $915,670,318. Over the ten year duration of CRP contracts, the estimated gross cost if no other contracts are signed will be $9.16 billion. In addition, cost-share payments for establishing vegetative cover on CRP acres will total an estimated $925 million ($50 per acre), payable in the first year. The estimated gross cost of the CRP bonus for corn producers in the fourth sign-up is $340 million. Total gross costs over ten years for land now under contract will thus total about $10.425 billion. Source for CRP contract payments: SCS and ASCS. These cost figures reflects payments to farmers for the program for land bid in the first four sign-ups; because of supply control benefits of the CRP, net cost to the treasury is generally considered to be much lower than would exist under the annual commodity programs alone.

(3) Estimated erosion reduction based on 21 tons per acre per year average erosion reduction on 18.5 million acres. Based on preliminary data for fourth sign-up. Source: USDA.

(4) Under the Food Security Act of 1985, the Conservation Reserve is authorized to expand to 45 million acres. At $48 per acre, the average annual rental payment for land bid into the Reserve during the first four sign-ups, total gross investment will reach $21.6 billion by the time that contracts signed between 1986 and 1990 expire, in the year 2000.

A bill introduced recently by Senator Nunn (S.1521), and co-sponsored by Senators Fowler, Cochran, Heflin, Hollings, and Harkin has received a very favorable reception from many in the farm and conservation community, and rightly so. It would accelerate the CRP enrollment schedule through 1990 and raise the acreage goal to 65 million acres. At a $48 per acre average rental payment, gross outlays over 10 years for a 65 million acre reserve would total $31.2 billion by the time contracts expire in 2000. Net costs to taxpayers for land retirement would probably be lower under the CRP than if single-year set-asides and paid diversions were used.

(5) "Final Report Conservation Reserve Program: Summary of Accomplishments". U.S. Department of Agriculture. ASCS, Washington, D.C. July, 1970, p. 1 (Foreword). The notable

exceptions to widespread reconversion of Soil Bank CRP land to crops were pine tree plantations established in the southeastern United States. According to one study, 86 percent of the Soil Bank pine tree plantings had been retained beyond 17 years in Georgia, Mississippi, and South Carolina. (See "Conversion of Southern Cropland to Southern Pine Tree Plantings: Conversion for Conservation Feasibility Study". U.S. Department of Agriculture. Office of Budget and Program Analysis, Washington, D.C. December, 1983, p. 16.)

(6) "Agriculture and the Environment in a Changing World Economy." The Conservation Foundation, Washington, D.C. 1986.

(7) "Economic Indicators of the Farm Sector: State Financial Summary, 1985". U.S. Department of Agriculture, ERS, ECIFS 5-3. p. 244.

(8) See for example: "Preserving the Value of America's Farmland: An Economic Analysis of a Secondary Market for Farm Mortgages". A report to the American Council of Life Insurance, Washington, D.C. 1987. "Federal support, through an explicit or implicit guarantee, is required to enhance acceptance of these securities by investors."

(9) Estimates of conservation compliance costs from M. Dicks, USDA/ERS.

Senator FOWLER. Thank you, Mr. Cook.

And I appreciate your restraint. On another day, we will invite an example of unbridled and unchecked passion. [Laughter.]

Mr. COOK. Well, I think the banks——

Senator FOWLER. If that was a paltry example, then I can't wait to see the full unedited movie. [Laughter.]

Mr. COOK. I think the banking community must have been shy before, and the Conservation Reserve Program has somehow overcome their natural shyness about conservation.

Senator FOWLER. Dr. Marshall, do you manage any farms for institutions and lenders?

Dr. MARSHALL. Insurance companies?

Senator FOWLER. Yes.

Dr. MARSHALL. Yes.

Senator FOWLER. Do they give you any instructions as to conservation policies they want?

Dr. MARSHALL. Yes, they do. In fact, I've been surprised at some of the testimony this morning. I found them to be quite interested in it. And they depend upon us, as local representatives, to enforce it. And we do our very best to enforce it. And there are times when you have to change tenants. And we insist on good crop rotation practices, good cultural practices, and all of these things that contribute to good management.

Senator FOWLER. You have trained conservationists on your staff?

Dr. MARSHALL. We have trained farm managers which have a knowledge of conservation. And we work with the local Soil Conservation people.

And many of the practices that we've been talking about that either have been followed or have not been followed are fairly well-known practices. I mean, you know, they're not highly technical practices. I mean I don't mean to belittle the technicality of it, but I mean the practices are well known.

Senator FOWLER. Are hunting and fishing rights usually adequate to compensate for the fees charged by firms such as yours?

Dr. MARSHALL. It varies.

Senator FOWLER. In southwest Georgia?

Dr. MARSHALL. It varies. It can be but not always.

Senator FOWLER. Well, gentlemen, I thank you very much for your testimony.

At this point, I will insert into the record a statement by the National Wildlife Federation.

[The prepared statement of the National Wildlife Federation follows:]

Working for the Nature of Tomorrow

NATIONAL WILDLIFE FEDERATION

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COMMENTS OF
THE NATIONAL WILDLIFE FEDERATION

ON

CONSERVATION MEASURES FOR FARM CREDIT SYSTEM BORROWERS AND FCS AND FmHA INVENTORY LANDS

BEFORE THE SENATE SUBCOMMITTEE ON
CONSERVATION AND FORESTRY OF THE
SENATE COMMITTEE ON AGRICULTURE,
NUTRITION AND FORESTRY

Prepared by

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FISHERIES AND WILDLIFE DIVISION
NATIONAL WILDLIFE FEDERATION

August 4, 1987

INTRODUCTION

The National Wildlife Federation (NWF) welcomes this opportunity to present our views regarding soil and water conservation measures to be included in Farm Credit System (FCS) legislation currently being considered in the Senate, as well as the advisibility of such measures on farmlands held in inventory by both the FCS and the Farmers Home Administration (FmHA). The NWF is the world's largest non-profit conservation education organization, with over 4.8 million members and supporters in 51 states and territories. NWF submits these comments for inclusion in the record for the subcommittee hearing on these issues scheduled for August 4th, 1987.

NWF is particularly concerned about the dramatic loss of wetlands nationwide, the overwhelming majority of which is caused by the conversion of wetlands to cropland. This country's only federal wetlands regulatory program, the Clean Water Act § 404 program, is totally ineffective in controlling such agricultural conversion of wetlands. NWF has actively pursued the enactment and implementation of the "swampbuster" and easement provisions in the Food Security Act of 1985 (FSA) in order to help stem the tide of wetland losses to agriculture. However, our experience thus far demonstrates that even the ambitious conservation measures of the Food Security Act will neither stop the conversion of wetlands to cropland nor reverse the extensive destruction that has already occurred.

Congress is now considering legislation to spend billions of dollars of taxpayer money, or commit billions of dollars of government assets, to "bail-out" the financially beleaguered FCS. One of the very practices which got FCS into the trouble it is in now has been loaning money to farmers to produce crops on marginal farmlands, e.g.,

flood-prone lands, wetlands, and highly erodible lands, that were never suitable for farming and have never produced a steady net income from crop production. These lending practices have not only hurt FCS, they have destroyed valuable fish and wildlife habitat while exacerbating the cycle of crop oversupply and price support payments. There are at least two ways to remedy these problems.

First, the federal government should require FCS borrowers to abide by the same conservation restrictions imposed in the FSA to help ensure that additional marginal farmlands are not brought into production. Second, Congress should authorize and encourage FCS and FmHA to learn from their mistakes and apply conservation restrictions on those marginal farmlands already foreclosed on and in inventory. Such measures should include direct transfer to the U.S. Fish and Wildlife Service (FWS) or state fish and wildlife agencies of wetlands for inclusion into the National Wildlife Refuge System or state management areas. They should also include the transfer of other inventory lands with important fish and wildllife habitat to appropriate federal or state resource agencies for conservation purposes.

NWF thus recommends legislation to: (1) impose the same conservation requirements embodied in the FSA on FCS borrowers; (2) require the FCS, like the FmHA, to screen inventory lands and impose conservation restrictions prior to resale; and (3) authorize and encourage the FCS and FmHA to transfer valuable wetlands and other inventory lands with important resource values to the FWS and other resource agencies requesting transfer.

CONSISTENT CONSERVATION PROVISIONS

The FSA requires farmers seeking ownership or operating loans from the FmHA to first certify that the loan will not be used to produce agricultural commodities on highly erodible land or converted wetlands. FmHA borrowers must also begin preparing and implementing approved soil conservation plans on highly erodible lands put into production between 1980 and 1985.

Unless Congress includes conservation provisions in the FCS legislation, the "bail-out" will permit FCS borrowers to continue to borrow money to expand production onto highly erodible lands and wetlands. This inconsistency is inequitable and disadvantages FmHA borrowers, environmentally destructive, and counterproductive to reducing crop oversupply, farm subsidies, and the federal budget deficit. It is illogical, for example, to invest heavily in setting aside highly erodible lands through the Conservation Reserve Program (CRP) while subsidizing FCS loans which permit farmers to expand production on highly erodible lands outside the CRP. If Congress is to place the FCS on sound financial footing, it must require the FCS to play by the new rules for reducing commodity production and enhancing soil and water conservation.

For this reason, NWF supports the proposal of the Conservation Foundation and other conservation groups that the FCS legislation direct FCS institutions, and credit institutions participating in any federally guaranteed "secondary market" for farm real estate loans, to require their borrowers to comply with Title XII, Subtitles B and C, of the FSA. The legislation should specifically require compliance with the highly erodible and wetlands conservation provisions of the FSA as a prerequisite to eligibility for any farm ownership or operating loans, or restructured loans, originating

after enactment of the FCS legislation.

Such legislation should be adopted expeditiously with timely regulations developed by the Farm Credit Administration, the Department of Agriculture, and the FWS to tailor the FSA conservation requirements to the FCS and participants in the secondary market. To ensure prompt implementation, Congress should require that draft regulations be published for public notice and comment and that Final Rules be promulgated within 120 days of enactment.

TRANSFER OF INVENTORY LANDS

Rationale

The transfer of wetlands and other important resource areas from FCS and FmHA inventory to state and federal resource agencies for conservation purposes will significantly advance national policies of soil and water conservation and restoring a healthy farm economy. By placing permanent conservation restrictions on inventory lands before resale to farmers, and by transferring particularly valuable environmental areas to resource agencies in fee, the FCS and FmHA would take additional marginal farmlands out of production and eliminate additional subsidies on these lands. These measures would also reduce the potential for future farm failures due to unsuccessful attempts to farm these marginal lands.

At the same time, inventory lands unsuitable for farming could, where appropriate, be transferred directly to the FWS or state fish and wildlife agencies. Areas that were once wetlands could be restored readily to provide important habitat for migratory waterfowl and other wildlife. Rehabilitating these areas also would

restore many of the important functions of the wetlands, such as improved water quality, flood control, and groundwater recharge. Costly flood control improvements, historically justified to protect flood-prone "farmlands," will no longer be necessary where these marginal farmlands are returned to their original wetland and floodplain function. The U.S. Forest Service and Bureau of Land Management might also manage certain of these lands for forest and rangeland conservation.

Transfer of Wetlands from FmHA Inventory

Transfer of wetland areas from FmHA inventory to FWS and state fish and wildlife agencies for conservation purposes is particularly feasible, practical, and ripe for congressional action. About 5 percent of the approximately 1.7 million acres currently in FmHA inventory, or about 85,000 acres, could be included in the National Wildlife Refuge System, either as conservation easements on private land or as fee simple additions to the refuge system.

The administrative mechanism for identifying FmHA inventory lands for such transfers is already in place. The FWS and FmHA have signed a Memorandum of Understanding (MOU) providing for FWS and FmHA screening of FmHA inventory lands to identify those lands with wetland and other important natural resource values which should be subject to conservation deed restrictions, easements, or ownership transfer to resource agencies. This screening process is on-going under current authorities, including Executive Order 11990, Protection of Wetlands, and §§ 1314 and 1318 of the FSA. The FWS and a number of state fish and wildlife agencies have already expressed an interest in managing certain inventory tracts located near

existing wildlife management areas which are particularly valuable to wildlife.

The problem with the MOU and current legislation, however, is that it does not expressly authorize the transfer of fee title ownership in inventory lands to resource agencies. Therefore, express congressional authority for such transfers is necessary. NWF urges the subcommittee to develop legislation to authorize the USDA to transfer ownership of FmHA inventory lands with important resource values to state and federal resource management agencies for conservation purposes. Such transfers would be at no cost to the resource agency requesting the transfer.

The Consolidated Farm and Rural Development Act, § 335 (b), currently contains language which has been interpreted to preclude transfers to federal or state resource agencies for conservation purposes. An amendment to this provision which expressly permits such transfers would be one way to provide the requisite congressional authority.

Transfer of FCS Inventory Lands

Legislation authorizing and encouraging transfer of lands in the FCS inventory would generally follow the FmHA model discussed above. FCS bail-out legislation should require that when FCS inventory lands are resold, they include deed restrictions to ensure the protection of wetlands in accordance with Executive Order 11990. Such restrictions would include permitting FWS, the states, or conservation and citizens organizations, to conduct wetland restoration and management activities in such wetlands. This inventory resale requirement and its implementation would be comparable to the requirements in the FSA §§ 1314 and 1318, and the FWS-FmHA

MOU discussed above.

The outright transfer of ownership in FCS inventory lands to resource management agencies for conservation purposes is discussed in a number of proposals now before the subcommittee. The NWF supports that of The American Farmland Trust, to transfer environmentally-sensitive, high-risk farmland in the FCS inventory to appropriate state and federal resource management agencies.

Additionally, with certain modifications, the Center for Rural Affairs' (CRA) proposal to transfer FCS inventory land to FmHA in exchange for government assistance payments to FCS may also provide a mechanism for land transfers to resource agencies. Under the CRA proposal, or "Johnson Amendment", FCS inventory lands transferred to FmHA would be subject to the FWS-FmHA MOU and other conservation restrictions on FmHA inventory resale.

The CRA proposal, however, directs FmHA to find the inventory land suitable for crop production and to give priority to family farmers in resale of both suitable and surplus lands. While NWF applauds efforts to return good farmland to the family farmer, it is a disservice to the farmer, the farm economy, and our nation's natural resources to resell to farmers important natural resource areas unsuitable for farming.

Before NWF can support the CRA proposal, it must be modified to require prior screening of inventory lands for unsuitable lands with important resource values, impose conservation restrictions on inventory lands resold to farmers, and grant priority to resource agencies requesting transfer of unsuitable lands with important resource values. The FCS might also be instructed to first choose important resource lands from its inventory for transfer to FmHA in exchange for government assistance.

Transferring a large percentage of important natural resource lands to FmHA would maximize the acreage of such lands to benefit from conservation practices.

There are also proposals to transfer FmHA inventory lands to FCS and thereby enhance the assets of the FCS. Such transfers could improve the FCS's fiscal status with fewer federal budget outlays and accomplish the transfer of wetlands to resource agencies if certain modifications are made. Specifically, FmHA could transfer suitable farmland to the FCS to enhance its portfolio and, in exchange, the FCS could transfer wetlands and other environmentally-sensitive lands to FmHA. These lands would then be subject to the FWS-FmHA screening procedures described above.

Of the proposals before the subcommittee, NWF is most concerned about the transfer of wetlands from FCS inventory to FWS or state fish and wildlife agencies. We urge the subcommittee to recommend, at a minimum, legislation authorizing USDA to obtain wetlands identified by FWS as appropriate for inclusion into the National Wildlife Refuge System or state management areas from FCS inventory. This would be accomplished through either an exchange for FmHA inventory lands of equal value or through a direct purchase from the FCS, ultimately transferring the lands to the state or federal agencies at no cost. FCS institutions also should be required to participate in the transfer as a top priority in their disposal of inventory lands.

CONCLUSION

Conservation measures applied to FmHA and FCS loans and inventory lands can improve significantly both environmental quality and the nation's agricultural economy. A framework for implementing such measures is already in place with the

FSA, associated regulations, and the FWS-FmHA MOU.

NWF urges the subcommittee to recommend legislation: (1) requiring FCS borrowers to observe the same conservation restrictions now required of FmHA borrowers; (2) requiring FCS to employ screening procedures similar to those used by FmHA for unsuitable inventory lands with important resource values ; and (3) authorizing and encouraging FmHA and the FCS to give high priority to the outright transfer of wetlands and other exceptional resource lands to state and federal resource management agencies at no cost.

American taxpayers expect and deserve, at a minimum, sound conservation and agricultural practices in return for the FCS bail-out. The legislation outlined above would be a practical, realistic, and first step in the right direction. Thank you.

Senator FOWLER. I need to say that the record will be left open for 2 weeks to receive additional testimony and responses to questions, and it shall be. And anybody who wants to supplement any of their testimony based on what they heard this morning, any suggestions to pursue any of the questions that we asked as we obviously seek the same goal. It will be very, very helpful to us.

We are new as a subcommittee, as you heard, but these are—as someone said, I think it was Mr. Severens, you know, you can pay for the land by farming it now. It's one of these periods of history. And we do, it seems to me, to have an opportunity to reexamine our policies and the goals of that policy as to whether or not it is succeeding in having the people on the land under the right kind of farming practices that will ensure the land as well as the farming of that land will continue.

And I do thank you for these specific suggestions that all of you, this panel especially, has given in their testimony. But feel free to supplement it in any responses or to anything that you have heard this morning.

Thank you very much. We stand adjourned.

[Whereupon, at 2:49 p.m., the subcommittee adjourned, subject to call of the Chair.]

[Material submitted for inclusion in the record follows:]

August 5, 1987

The Honorable Patrick J. Leahy, Chairman
Senate Committee on Agriculture,
Nutrition and Forestry
Rm. SR-328A
Washington, D.C. 20510

Re: Conservation Measures for FmHA Inventory Lands:

Dear Mr. Chairman:

The following comments are submitted by the Rails-to-Trails Conservancy to the Senate Subcommittee on Conservation and Forestry of the Senate Committee on Agriculture, Nutrition and Forestry in support of conservation measures to be included in farm credit legislation presently pending before your committee. A hearing was held on this issue August 4, 1987. We request that these remarks be included in the record of this hearing.

The Rails-to-Trails Conservancy (RTC) is a nationwide, non-profit membership organization devoted to the preservation of abandoned rail corridors for conservation, recreation, historic preservation, and potential future rail use. Over 115,000 miles of rail corridor, and an additional 16,000 miles of electrified "interurban" rail corridor, have been abandoned in the United States. Only 145,000 miles of rail corridor (and virtually zero interurbans) remain in service. Many of these corridors were constructed over federal lands or with federal assistance.[1] Federal land-grants alone represent over 627,000 acres of rail corridor.

At an average width of 100 feet, abandoned corridors nationwide include over 1.5 million acres of habitat. Many of these corridors follow river beds and are therefore highly productive as wildlife habitat. They are also wet. Even non-riverine corridors are surrounded by ponds and other wetlands

[1] A 1935 map of federal land grant and bond-aided railroads is included as appendix A.

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created from the borrow pits formed when the corridor berms were constructed. As noted in the attached map, an extremely high density of rail line construction took place from 1850-1890 in an area of the mid-west hit hardest by the farm credit crisis. It is therefore highly likely that many of the 1.7 million acres of farmland presently in inventory with the Farmers Home Administration, and additional millions of acres held by the Federal Land Bank and private banks and insurance companies as a result of the farm credit crisis, have rail corridors across or adjacent to their borders.

It is the position of the Rails-to-Trails Conservancy that the Secretary of Agriculture has both the power and the duty to conserve abandoned rail corridors for trail use to the extent provided by law. The statutory basis for this duty is Section 9(b) of the National Trails System Act. 16 U.S. C. 1248(b) (appendix B). Since many of these corridors contain wetlands and other highly-productive wildlife habitat, the Secretary has an independent duty to conserve these corridors under Presidential Executive Order 11990, Protection of Wetlands, and as further specified in 7 CFR Part 1940, Subpart G. One effective mechanism for conservation of such corridors is provided by Section 1314 of The Food Security Act of 1985 which states that, with respect to inventory lands held by the Farmers Home Administration--

> "...the Secretary (of Agriculture) may for conservation purposes grant or sell an easement, restriction, development rights, or the equivalent thereof, to a unit of local or State government or a private non-profit organization separately from the underlying or sum of other rights possessed by the United States."

It is our understanding that the United States Fish and Wildlife Service and the Farmers Home Administration have entered into a Memorandum of Understanding implementing Section 1314 which provides for the survey of inventory lands prior to leasing or disposal of inventory property, the preparation of environmental analyses based on these surveys, and the development of lease or deed restrictions protecting or restoring "Important Resources and land uses."[2] We request this committee to specifically direct both the U.S. Fish and Wildlife Service and the Farmers Home Administration to include in their surveys an evaluation of abandoned or operating rail corridors for inclusion in this conservation program. Where preservation of these rail corridors would further the purposes of Section 1314 of the Food Security Act, E.O. 11990, or Section 9(b) of the National Trails System Act, the Farmers Home Administration should be directed to convey an easement preserving the corridor

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[2] See page four the the Memorandum of Understanding attached to the testimony of Director Frank H. Dunkle in this hearing.

to a responsible and qualifying unit of local or State government or a private non-profit organization at no cost other than a committment to maintain the property in trail use.

This requirement is especially important where operational rail corridors transect or adjoin inventory property. These corridors are, by definition, still 100% intact. However, adjoining farms may own reversionary interests in these corridors upon abandonment. When abandonment occurs they are quickly plowed under and the linear integrity of the corridor is lost forever. Only by conveying the reversionary interest in these operational corridors to eligible conservation agencies and organizations will these corridors be preserved.

Conservation of rail corridors would impose little difficulty to either the Farmers Home Administration or the U.S. Fish and Wildlife Service. Unlike wetlands, which must be inventoried through field research, the existence of a rail line across or adjacent to inventory land can be determined merely by reviewing the deed of title. Many agencies and non-profit organizations exist that are willing to manage these corridors for trail and conservation uses. Access is no problem because the corridors themselves provide access for use and maintenance. These are not isolated enclaves but rather self-contained shelterbelts suitable for wetland conservation, wildlife production, recreation, and historic preservation. They should not be chopped up or plowed under. They should be preserved.

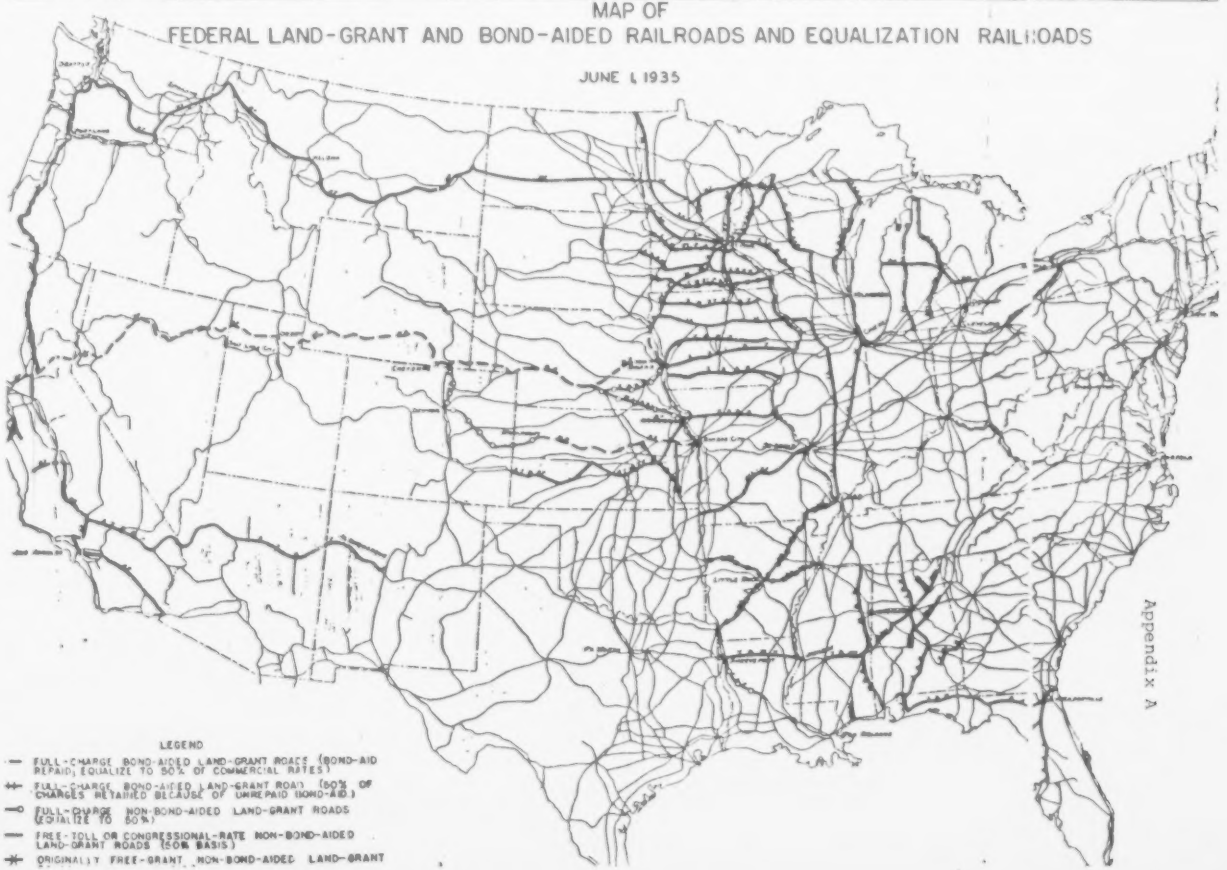
RTC commends both the U.S. Fish and Wildlife Service and the Farmers Home Administration for entering into the Memorandum of Understanding referred to in this testimony. However, we request this committee to specifically direct the two contracting agencies to include rail corridor conservation in their list of objectives to be promoted through their cooperative efforts.

Sincerely,

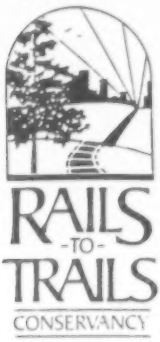
David G. Burwell
President

MAP OF
FEDERAL LAND-GRANT AND BOND-AIDED RAILROADS AND EQUALIZATION RAILROADS

JUNE 1, 1935


LEGEND
FULL-CHARGE BOND-AIDED LAND-GRANT ROADS (BOND-AID REPAID; EQUALIZE TO 50% OF COMMERCIAL RATES)
FULL-CHARGE BOND-AIDED LAND-GRANT ROAD (50% OF CHARGES RETAINED BECAUSE OF UNREPAID BOND-AID)
FULL-CHARGE NON-BOND-AIDED LAND-GRANT ROADS (EQUALIZE TO 50%)
FREE-TOLL OR CONGRESSIONAL-RATE NON-BOND-AIDED LAND-GRANT ROADS (50% BASIS)
ORIGINALLY FREE-GRANT, NON-BOND-AIDED LAND-GRANT

Appendix B



February 19, 1987

Office of the Chief
Directives Management Branch
Farmers Home Administration
United States Department of Agriculture
Room 6348
South Agriculture Building
14th & Independence Ave. S.W.
Washington, D.C. 20250

re: General Revision of Farmer Program Regulations, 52 Fed. Reg. 1706 et seq. (January 15, 1987)

Dear Sir or Madam:

These comments supplement our comments submitted February 17 on the conservation easement set-aside program contained in the above-captioned proposed rules.

In our previous comments we failed to point out that USDA has both the power and the obligation to protect lands suitable for trails use. Section 9(b) of the National Trails System Act, 16 U.S.C. 1248(b), states:

> The Department of Defense, the Department of Transportation, the Interstate Commerce Commission, the Federal Communications Commission, the Secretary of Energy, and other Federal agencies having jurisdiction or information concerning the use, abandonment, or disposition of roadways, utility rights-of-way, or other properties which may be suitable for the purpose of improving or expanding the national trails system shall cooperate with the Secretary of Interior and the Secretary of Agriculture in order to assure, to the extent practicable, that any such properties having values suitable for trail purposes may be made available for such use.

In accordance with this directive, we request the Farmers Home Administration to explicitedly reference abandoned and about-to-be-abandoned railroad corridors contained in local, state or federal open space, recreation or trail plans as eligible for

inclusion in the conservation set-aside program. We are authorized to state that the Iowa Trails Council, 1201 Central Ave., Center Point, Iowa, 52213, through its Executive Director Tom Neenan, joins in these and our previous comments.

Sincerely,

David G. Burwell
President

cc: Tom Neenan

P.S. Please note our new address and phone number:
1325 Massachusetts Avenue, NW, Suite 400
Washington, D.C. 20005
Tel: 202/783-0980

Ohio Wildlife Management Association

Statement of David L. Risley for
the Ohio Wildlife Management Association
to the Senate Agriculture Committee,
Oversight Hearing on Inventory Lands
August 4, 1987

A June 1986 General Accounting Office report entitled "Federally Acquired Farm Property Presents a Management Challenge" identified several major problems inherent with federal inventory lands. This committee is ready to accept that challenge. It is my hope that observations from Ohio will help the committee make the necessary changes in the law or policy that will manage that land in the public's best interest.

The Food and Security Act of 1985 was intended as a message to agricultural producers that the federal government was serious about conservation. The abuse of our natural resources was not going to be rewarded by a federal subsidy. Sodbuster and swampbuster disincentives and the conservation reserve program were vehicles to identify important resources and provide federal protection. But before the federal government can attempt to establish a conservation ethic with private landowners it must get its own house in order. It must do that by managing inventory lands, not for one department or one agency, but in the best interests of the taxpayer.

Several methods are available to accomplish this but Congress can facilitate and streamline several of these processes. Section 1314 of the Food and Security Act allows Farmers' Home Administration (FmHA) to grant easements to other entities for conservation purposes as long as such grants do not adversely affect FmHA. This adverse impact to FmHA will never disappear but the taxpayer would best be served by granting easements. Since the inception of cropland adjustment programs in the 1930's there has annually been an attempt to restrict crop production. Why should one government agency sell a property, usually at a loss according to GAO report RCED-86-88, when the subsequent landowner will contribute to a crop surplus problem, likely receive crop subsidy payments, contribute to a soil erosion problem and eliminate wildlife habitat? A long term conservation easement would be in the public's best interest and Congress should see that this provision is rapidly and completely implemented. In some cases, FmHA holds land that should never have been cropped in the first place. This committee should consider legislation allowing for transfer of such land to willing state or federal wildlife agencies instead of pouring more federal dollars into an unprofitable venture.

This committee should also consider passing legislation changing Executive Order 11990, Protection of Wetlands, into law. This executive order was routinely ignored until recent work under the Food and Security Act alerted most wildlife agencies of its potential. All federal agencies should be required to grant wetland easements when an acceptable entity is available. The federal government has no excuse for the loss of any wetland that was once in federal ownership.

The federal government, and Congress in particular, must recognize the importance of wise land management decisions. A government agency cannot function as a corporation with an eye on only the short term bottom line. Stringent rules on the protection of inventory property can only help in building a strong conservation ethic on all lands, public and private.

Natural Resources
Defense Council

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Accountability for Conservation in Agricultural Lending

Statement of the Natural Resources Defense Council
Concerning Farm Credit System Affairs

Submitted to the Subcommittee on
Conservation and Forestry, Committee on
Agriculture, Nutrition and Forestry,
U.S. Senate

by:

Justin Ward
Resource Policy Specialist

Caleb Corkery
Agriculture Project Assistant

August 4, 1987

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The Natural Resources Defense Council (NRDC)[1] commends the subcommittee for its timely inquiry into the management of lands held in inventory by agricultural lenders. As several witnesses have confirmed, environmental as well as financial problems currently threaten hundreds of thousands of acres of fragile inventory cropland; this unfortunate state of affairs derives partly from a history of farm credit policies insensitive to natural resource protection. We believe Congress has an opportunity and responsibility to take steps to avoid comparable scenarios in the future, and urge that important conservation conditions be attached to Farm Credit System (FCS) relief legislation now being considered by Congress.

Specifically, we recommend that FCS borrowers be required to adhere to standards embraced in the "sodbuster," "conservation compliance" and "swampbuster" provisions of the 1985 farm bill, which seek to protect highly erodible land and natural wetland from abusive cultivation. Such conditions should extend to the trade in farm mortgages that new authority for a federally guaranteed "secondary market" may enable.

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[1] NRDC is an national non-profit corporation with more than 65,000 members and contributors, dedicated to the preservation, enhancement and defense of the natural resources of the United States and the world. Through the efforts of its agriculture project, NRDC supports the maintenance of a high quality rural environment through the wise stewardship of the productive capacity and ecological values of this nation's agricultural lands.

This has three principal advantages. First, linking conservation to credit relief would promote consistency across federal laws governing public subsidies for crop production. In particular, the conservation title of the farm bill, as noted, wisely protects federal farm investment by restricting USDA program eligibility to careful land stewards. Of special relevance to credit, the farm bill mandates that Farmers Home Administration (FmHA) borrowers, to ensure full loan eligibility, must certify their compliance with the statute's highly erodible land and wetland conservation provisions. Similarly, the Tax Reform Act of 1986 explicitly denies capital gains benefits to sodbusters and swampbusters, reinforcing the farm bill's provisions.

Second, natural resource protection conditions in FCS lending would complement the farm bill's provisions by providing a federal incentive for sound conservation practices for producers who are system borrowers but elect not to participate in federal farm programs. This could prove significant upon recovery of the overall farm economy, when USDA program participation may drop and the farm bill's conservation measures may consequently carry less force. Conservation conditions on FCS loans could be particularly important in mitigating against a second-generation plowout of the 40-45 million acres of highly erodible cropland that are being enrolled in the farm bill's conservation reserve program.

Third, conservation conditions in FCS lending would be easy to administer. Indeed, the framework already in place for implementation of the farm bill's conservation provisions, which typically involves only modest amounts of paperwork, could be conveniently adapted to FCS procedures. As the federal agency that oversees FCS affairs, the Farm Credit Administration should promulgate regulations modeled after the interim rule (51 Fed. Reg. 23496) under which FmHA is carrying out its conservation responsibilities pursuant to the farm bill. That interim rule appropriately proscribes the substitution of non-FmHA funds as a means of unfairly avoiding sodbuster and swampbuster restrictions.

Given the apparent likelihood of a multi-billion dollar federal investment to shore up the FCS's financial position, it is imperative that the taxpayers' money not abet a repeat of past mistakes. By integrating conservation conditions in any formula for reorganizing and assisting the FCS, Congress can reverse a legacy of indiscriminate lending policies that has contributed to needless and destructive agricultural expansion onto marginal and ecologically sensitive lands, to the detriment of farmers and the rural environment.